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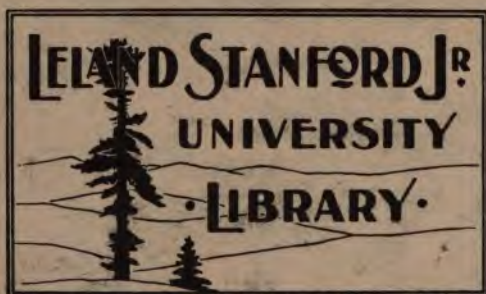
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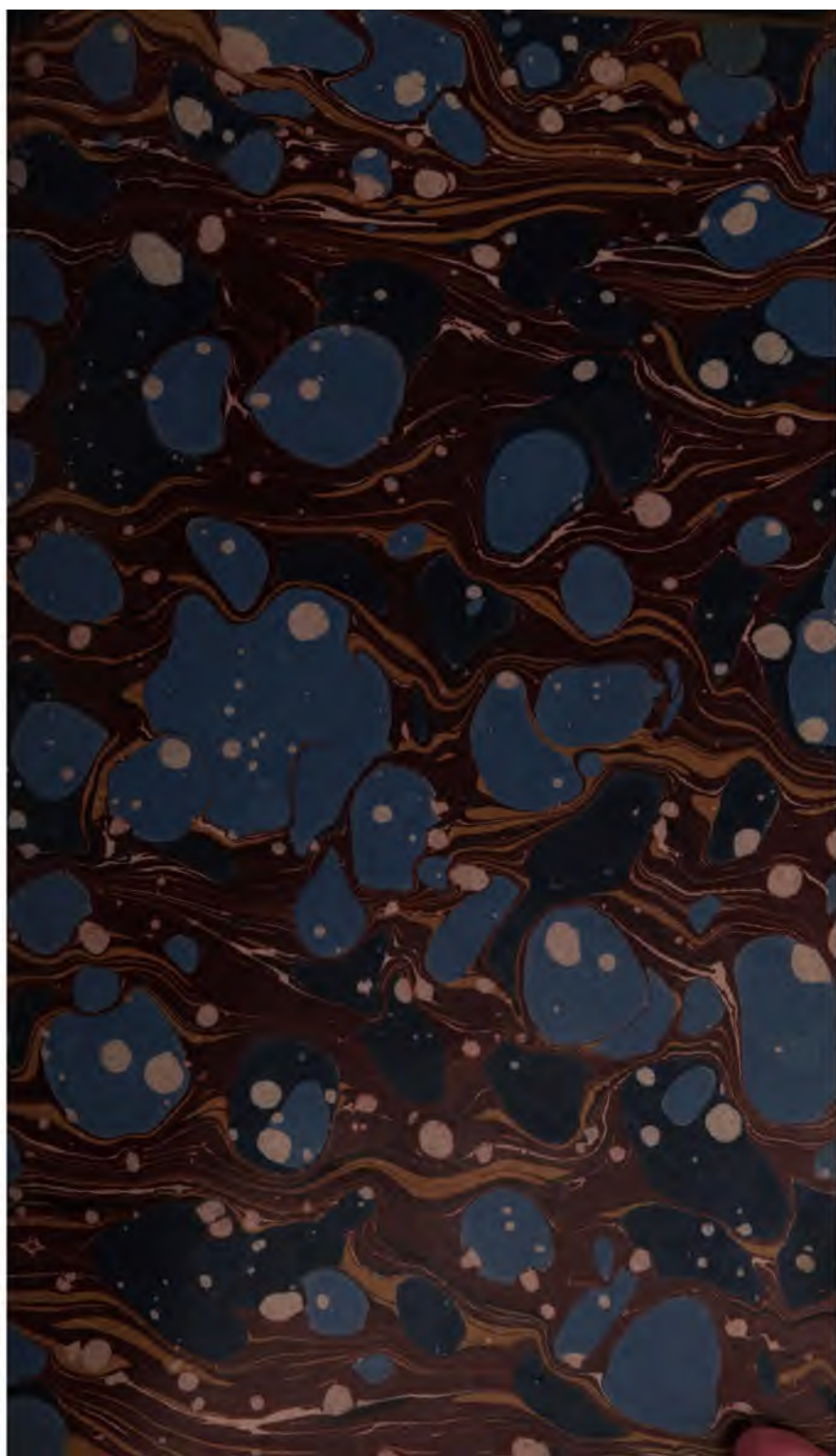
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# HISTORY OF TASMANIA.





THE  
HISTORY OF TASMANIA:

BY JOHN WEST,

MINISTER OF ST. JOHN SQUARE CHAPEL, LAUNCESTON.

VOLUME I.

TASMANIA:

HENRY DOWLING, LAUNCESTON.

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1852.

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BY

THE AUTHOR.

LAUNCESTON, SEPTEMBER, 1852.



## ADVERTISEMENT.

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# **HISTORY OF TASMANIA.**



**DISCOVERY, &c.**





## DISCOVERY, &c.

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### SECTION I.

NEARLY fifty years have elapsed, since Van Diemen's Land was numbered with the colonies of the British empire. A generation has risen up and is passing away. Thousands, while they venerate the land of their European ancestors, with an amiable fondness love Tasmania as their native country. They will, hereafter, guide its affairs, extend its commerce, and defend its soil; and, not inferior in virtue and intelligence, they will fill an important position in the vast system of Australasia.

To gratify their curiosity, and offer to their view the instructive and inspiring events of the past, is the purpose of this history.

The difficulty of the task can be appreciated only by experience. To collect from scattered records, facts worthy of remembrance; to separate reality from romance; to remove partial coloring from statements made long ago; and to exhibit useful truth without disguise and without offence, required much research and deliberation.

It is not the intention of this history to relate every event which, when passing, may have been deemed momentous; much less to recal from obscurity the errors, absurdity, and wickedness which exercised no distinct influence on the common welfare. The author has endeavoured to realize the feelings and sympathies of the benevolent and just of another age, and to confine his pen to details which may maintain their interest, when the passions with which they were associated shall subside for ever.

In calling this work *THE HISTORY OF TASMANIA*, a designation is chosen generally preferred by the colonists, and which their successors will certainly adopt. "Van Diemen" is a name affixed to the north coast of New Holland; and this country is the first known discovery of Tasman.

The name of Tasman is recognised by the royal patent constituting the diocese; by several literary societies and periodical works: it forms the term by which we distinguish our Tasmanian from our European youth.

Tasmania is preferred, because "Van Diemen's Land" is associated among all nations with the idea of bondage and guilt; and, finally, because while Tasmania is a melodious and simple sound, "Van Diemen" is harsh, complex, and infernal.

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During the reign of Charles II. (Frederick Henry, grandfather of William III. being Stadtholder of Holland) the Dutch discovered this island. The enterprise of that people had raised them to the zenith of their power: unless by England, they were unrivalled in nautical science and commercial opulence. More for the purposes of trade than the acquisition of knowledge, they were anxious to discover unknown countries, and to conceal the information they possessed from the rest of the world.

At this time, Anthony Van Diemen was governor-general of Batavia: by him, Abel Jans Tasman was commissioned to explore the "Great South Land," the name by which New Holland was known until 1665, when, by the authority of the Netherland government, it received its present designation. A fragment of the journal of Tasman, containing an account of his discovery, was first published by Dirk Rembrant, and afterwards translated into most European tongues. In this abstract nautical details respecting Van Diemen's Land were omitted, but were described in the journal itself, and by thirty-eight charts, views, and figures. These were purchased by Sir Joseph Banks, on his return from his voyage to these seas. Tasman's journal was translated by a Netherland clergyman: he considered the age of the manuscript confirmed by the spelling: that it was genuine he had no doubt, although he questioned whether written by Tasman, or transcribed at his command. Sir Joseph Banks acquired at the same time a copy of instructions to Tasman, given by the Governor of Batavia in 1644, for a second expedition, and which recapitulated the various voyages of his predecessors. These, however, have no connection with Van Diemen's Land.

To adorn the new stadthouse of Amsterdam, erected in 1665, three hemispheres were wrought in stone, of twenty-two feet in diameter: the circles were inlaid with brass, and



were executed by a celebrated artist. The southern hemisphere exhibited the discoveries of Tasman and his predecessors: they formed the pavement of the hall, until obliterated by the tread of several generations. They were quite forgotten when Sir Joseph Banks sought information from the inhabitants. A copy of these works of art was preserved, and displayed the extent to which New Holland and Van Diemen's Land were known.

The journal of Tasman has been greatly admired: it is clear, laconic, and devout.\* It opens with an invocation: "May God Almighty be pleased to give his blessing to this voyage. Amen." The document is, indeed, full of pious sentiments: when a long desired breeze liberated the vessel from port, or refreshment was obtained, or safe anchorage found, he dots down a thanksgiving. He reckoned his longitude from the Peak of Teneriffe: the hours he called glasses; his miles were German, fifteen to a degree.

On the 14th of August, 1642, Tasman embarked at Batavia, on board the *Heemskirk*, the fly-boat *Zeehaan*, Jerit Zanzoon, master, in company. They set sail for the Mauritius, and arrived on the 5th of September. That island, then commanded by Van Steelan, was but little cultivated, and gave slight promise of its present importance.† On the 4th October, they were ready to depart, but were delayed by contrary winds until the 8th, when on a change in their favor they stood eastward to sea. On the 27th, a council being called, it was resolved that a man should constantly look out at the topmast head; and to encourage vigilance it was determined, that the first discoverer of land should receive three reals and a pot of arrack. On the 4th November they saw patches of duckweed and a seal, and inferred their vicinity to land. The first pilot, Francis Jacobz, on the 7th, supported by the advice of the steersman,

\* The following is its title:—*Journal of Discovery, by me, Abel Jans Tasman, of a Voyage from Batavia for making discoveries of the unknown South Land, 1642.*—*Burney's Chronological History*, 1813.

† Discovered in the year 1505, by Don Pedro Mascareguas, a Spanish navigator: he gave it the name of "Cerné." It was uninhabited, and destitute of every species of quadruped. In 1598 it was visited by the Dutch Admiral Van Neck, who finding it unoccupied gave it its present name, in honor of Maurice, Prince of Holland. In 1601 a Frenchman was found on the island by a Dutch captain. He had been left by an English vessel, and had remained two years subsisting on turtle and dates: his understanding was impaired by his long solitude. The Dutch had a small fort, when it was visited by Tasman, which is represented in the drawings that illustrated his journal. The Dutch afterwards abandoned the island, and it has passed through many changes, until it was conquered by Great Britain.—*Grant's History of the Mauritius*.

thus delivered his opinion :—"We should keep to the 44° south latitude, until we have passed 150° longitude; then make for latitude 40° south, and keeping in that parallel to run eastward to 220° longitude, and then steering northward search with the trade wind from east to west for the Solomon Islands. We imagine, if we meet with no main land till we come to 150° longitude, we must then meet with islands." On the 17th, they were in latitude 44° 15' and longitude 147° 3' : they concluded that they had already passed the south land then known. On the 22nd they found their compass was not still within eight points, which they attributed to the influence of loadstone, and which kept the needle in continual motion. On the 24th, at noon, they found their latitude 42° 25' south, longitude 163° 31' : in the afternoon, at 4 o'clock, they observed land, Point Hibbs, bearing east by north. The land was high, and towards evening they saw lofty mountains to the east south-east, and to the north-east two smaller mountains : here their compass stood right. They resolved to run off five hours to sea, and then to run back towards the land. On the 25th, the morning was calm, and at 5 o'clock they were within three miles of the shore, and had soundings at sixty fathoms. They approached a level coast, and reckoned their latitude 42° 30', and middle longitude 163° 50'. On this day they named their discovery : "we called it Anthony Van Diemen's Land, in honor of our high magistrate and governor-general, and the islands near (Boreels) we named in honor of the council of India, as you may see by the little map we made." Next day they lost sight of land. They fixed the longitude 163° 50', and gave orders to the master of the *Zeehaan* to adopt that reckoning. On the 28th land reappeared, and in the evening they came near three small islands, one of which they thought like the head of a lion (Mewstone, of Furneaux). On the following morning they passed two cliffs, one (the Swilly, of Furneaux) like the Pedra Branca, near the coast of China; the other, the eastern cliff, resembling a high misshapen tower (the Eddystone, of Cook). Between the cliff and the main land they passed, until they came almost to Storm Bay, where they found it impossible to anchor, and were driven by the wind to sea—so far, that land could scarcely be sighted in the morning. In the afternoon of the 1st December, they anchored in a good port (marked Frederick Hendrik Bay in the chart), with twenty-two fathoms water, and bottom of fine light grey sand.

On the following morning the boats were despatched to



the shore: on their return, the steersman informed them that they had heard the sound of voices, and of a little gong; but saw no one. They remarked two trees, sixty feet from the ground to the branches, and two and a-half in circumference: the bark taken off with flint stones, and steps cut to climb for birds' nests, full five feet from each other, and indicative of a very tall people. They saw marks, such as are left by the claws of a tiger, and brought on board the excrements of some quadruped; gum lac, which dropped from trees, and greens "which might be used in place of wormwood." They saw people at the east corner of the bay:\* they found no fish, except mussels: many trees were burned hollow near the ground; they were widely separated, and admitted an extensive view.

On the 3rd, they went to a little bay, south-west from their ships, in search of water: the surf prevented their landing, but the carpenter swam on shore; and near four remarkable trees, standing in the form of a crescent, he erected a post, on which a compass was carved, and left the Prince's flag flying upon it.† "When the said carpenter had done this in the sight of me, Abel Jans Tasman, of the master Jerit Zanzoon, and under merchant Abraham Coomans, we went in the shallop as near as possible, and the said carpenter swam back through the surf. We then returned on board, and left this memorial to the posterity of the inhabitants. They did not show themselves, and we suspected some to be not far from thence, and watching carefully our doings." The last object they noticed was a large round mountain (St. Patrick's Head), on the eastern coast, of which they lost sight on the 5th December.

From Van Diemen's Land they proceeded to New Zealand, where by an encounter with the natives several lives were lost: thence they passed Tongataboo, Amsterdam, and Rotterdam, and arrived at Batavia on the 15th June, 1643. Tasman closes his journal with his usual devotion: "God be praised for this happy voyage. Amen."

\* Probably their fires: had they seen them, they could not have fallen into error respecting their height.

† "The same romantic little rock, with its fringe of grey ironstone shingle, still shelters itself under the castellated cliffs of trap rock, on its northern and southern horns; embosomed in its innermost recesses by a noble forest, whose green shades encroach upon the verge of the ocean. It is less than half-a-mile across, and nearer its northern than its southern extremity, the sea has cast up a key of large grey rounded ironstone, which interrupts the equal curve of the beach, and doubtless marks the spot where the ship's carpenter swam ashore."—*Gell's Remarks on the First Discovery: Tasmanian Journal*, vol. ii. p. 327.

That Maria Island was named after the daughter of Van Diemen, and that Tasman went over the ocean writing down her name in the imperishable records of his discoveries, is a pleasing tale; but the evidence on which it rests is far from conclusive. Thus at Amsterdam he called the anchorage Van Diemen's Road, and where the boats went for water Maria's Bay, "in honor of our governor-general and his lady." That a daughter of the same name existed is not improbable, but who can tell whether the Maria Island of Tasmania's coast was named in complaisance to the daughter, or to conciliate the mother! In hope to confirm the agreeable fiction the journal of Tasman has been examined, but in vain.

The spirit of discovery revived in Europe after a long slumber; and a succession of illustrious navigators, in their passage to regions deemed more important, touched at Van Diemen's Land, and thus rapidly developed its geography. After Tasman, the next visitor was Captain Marion, of the *Mascarin and Castries*, who in 1772 arrived from the Mauritius, in search of the "southern continent," then the grand object of nautical inquiry, and anchored in Frederick Hendrik Bay, the 4th March. The visit is chiefly memorable for a fatal collision with the natives, who, according to the French, exhibited uncommon ferocity. On his stepping on shore they offered Captain Marion a fire stick, which he supposed a ceremony of friendship; but when he lighted a heap of wood, as he imagined in compliance with their custom, they retired to a hill, and threw a shower of stones. The French fired their muskets, and the natives fled: their pursuers found in the wood a dying savage—the first victim of European intrusion. Marion and some others were injured slightly by the missiles of the natives, and a black servant was wounded by a spear.

The remarks they made are of no great value: they entered the country, and saw everywhere the effects of fire, which they supposed was intended to drive wild animals from the coast. They could not discover a tree suitable for a mast, and were unsuccessful in obtaining water. A small map, which sketched the form of the coast with considerable exactness, accompanied the account of this voyage, and tended to awaken the French to the importance of these seas.

The next visit was accidental, but most important: Captain Cook, in 1772, left Great Britain to explore the icy region near the Pole. There the vessels separated in a



fog: they were unable to rejoin, and while Cook proceeded to New Zealand in the *Resolution*, Captain Tobias Furneaux, his second in command, touched at Van Diemen's Land in the *Adventure*. He made the south-west cape on the 9th of March, 1773, exactly one year after Marion left the island. After passing the Mewstone, a boat's crew sent on shore reported favorably of the country, and that they had seen beautiful cascades pouring from rocks two hundred feet high. Finding no anchorage, Furneaux passed the black rocks (the Boreels of Tasman), which he called the Friars, and discovered Adventure Bay, which is separated from Storm Bay by Cape Frederick Henry. There they found anchorage in seven fathoms, within half a mile of either shore, and obtained wood and water in abundance. The numerous islets and tortuous navigation of the coasts led Furneaux into several errors. To discuss them would tire the patience of nine readers in ten, and afford no pleasure to the tenth.

The *Adventure* sailed along the eastern coast to the latitude of  $40^{\circ} 50'$ , where Furneaux observed the land turned towards the westward. He, however, narrowly missed the discovery of the straits, and turned off for New Zealand, convinced "that there was no strait between New Holland and Van Diemen's Land, but a very deep bay." The impression he adopted, he conveyed to Captain Cook, who had intended to visit Van Diemen's Land for the solution of this geographical problem, which now he considered determined.\*

On his third and final voyage to the Pacific, Captain Cook touched at Van Diemen's Land in the *Resolution*, then accompanied by Captain Clerke. He sighted the island bearing north-west half-west, distant three leagues from Mewstone. A neighbouring rock, unnoticed by Furneaux, he called the Eddystone, from its resemblance to an English lighthouse of that name. Detained by calms, he did not reach Adventure Bay until the 26th, where at 4 P.M. he dropped anchor in twelve fathoms, within a mile of the shore. The officers were delighted with the country, and particularly with its gigantic forests. Mr. Anderson, the surgeon, spent his leisure wandering on the beach of Adventure Bay; angling in a lake, or ascending the neighbouring hills.† Captain Cook left swine on the shore, which were

\* *Cook's Voyages*.

† A folio edition of *Cook's Voyages*, published in the last century, at the



driven into the bush when the natives were not present ; in the hope they might escape them, and thus add to the resources of the country. He departed on the 30th for New Zealand. The account left by Cook is chiefly interesting for its description of the natives, and will be noticed in the history of that unfortunate people.

On the 3rd July, 1789, the brig *Mercury*, John Henry Cox, master, entered a deep bay on the south side of Van Diemen's Land, and was about ten miles from the Mewstone : attempting Adventure Bay, he was carried to the eastward, and afterwards accidentally discovered Oyster Bay.

Captain Wm. Bligh, subsequently governor of New South Wales, touched at Van Diemen's Land in 1788, when on his voyage to Tahiti, whence he was instructed to convey the bread fruit tree to the West India Islands. His object was frustrated by the mutiny of his crew ; and after a passage in an open boat, attended with extraordinary perils, he reached Great Britain. The *Providence* and *Assistant* were placed under his command : he was sent on the same errand, in which he was successful, and re-appeared in Adventure Bay in 1792. During his stay he planted several fruit trees, acorns, and vegetables.

An inscription found by the French crew on a tree, signified that near by, " Captain William Bligh planted seven fruit trees : Messrs. T. and W., botanists." They consisted of one fig, two pomegranates, and four quinces. An apple tree was found by Labillardière on the coast. They doubtless all perished. The Frenchman was greatly scandalised by the despotism which condemned men of science to initials, and gave a sea captain a monopoly of fame.

This celebrated naturalist was attached to the expedition of Rear-Admiral Brunè D'Entrecasteaux, sent out by the government of France to ascertain the fate of La Perouse, whose amiable reputation conciliated the good-will of all parties. Although concluded that the vessel he commanded must be lost, it was fondly hoped that he still survived. The national assembly paused in the midst of its conflict with the king, to request that vessels might be dis-

" King's Arms," Paternoster-row, London, contains the following sentence, which, as perhaps the first example of invention in reference to the country, may deserve remembrance :—" Stately groves, rivers, and lawns, of vast extent." " Thickets full of birds of the most beautiful plumage, of various notes, whose melody was truly enchanting. It was now the time (29th January !) when nature poured forth her luxuriant exuberance, to clothe this country with rich variety."—Vol. ii. p. 425.

patched, and rewards offered, for his relief. In his decree, Louis XVI. describes the expedition as intended, beyond its primary design, to perfect the description of the globe. On the day the first colonists of New South Wales entered Port Jackson, the expedition of La Perouse was seen by the astonished English approaching the coast. After an interchange of those civilities which dignify the intercourse of polished nations, he left New Holland.

In a letter, dated September, 1787, Perouse stated his intention "to employ six months in visiting the Friendly Islands to procure refreshments; the south-west coast of Mendana, the land of the Arsacides, with that of Louisiade, as far as New Guinea."\*

Many years after, relics were recovered, which demonstrated the vicinity of his misfortunes. A lascar informed Captain Peter Dillon, of the East India Company's service, that two Frenchmen survived at Manicola; he therefore visited the island, where he found several relics of the lost admiral, although the Frenchmen were dead; among the rest his sword guard, marked with his cypher.† Dillon was honored by the French government with the title of Chevalier, and received a pension.

In 1792, D'Entrecasteaux in the *Recherche*, and Captain Huon Kermadec in the *Esperance*, reached Van Diemen's Land. On the 20th April, when looking for Adventure Bay, they discovered the channel which bears the name of D'Entrecasteaux. They remained a month, when they departed on their search, and returned on the 20th January, 1793, to complete their observations. They found that the channel extended to the Storm Bay of Tasman: they entered and named the Huon, and the Rivère du Nord, now the Derwent, and examined the different harbours. Their charts are said to exhibit the finest specimen of marine surveying ever made

\* *Voyage of Perouse* (translation). London, 1799.

Letters buried in a bottle, beneath a tree in Adventure Bay, were found by Captain Bunker, of the *Venus*, in 1809, to which he was directed by the words, still legible, "dig underneath;" and supposed, from his imperfect knowledge of the language, that they were left by Perouse. In this he was mistaken: they were deposited by D'Entrecasteaux, at his second visit. *Bent's Almanack*, 1828, adopted Bunker's mistake: it was copied by Mr. Widowson, who adds—"these letters were dated one month after his departure from Port Jackson, and led to the opinion that the expedition must have perished on some reef of Van Diemen's Land. In consequence of this idea, the French government in 1791," &c. The first mistake can be allowed for; but not that a discovery of letters in 1809, prompted an expedition in 1791.

† *Hobart Town Gazette*, 1827.



in a new country.\* Of D'Entrecasteaux's Channel, then deemed the most important discovery since the time of Tasman, Rossel, who recorded the events of the voyage, writes with rapture :—"A harbour, twenty-four miles in length, and equally safe in every part. Such a retreat, in a gulph which bears the menacing name of Storm Bay, is a luxury that, to be able to express, must be felt."

Captain John Hayes, of the Bombay marine, with the private ships *Duke* and *Duchess*, examined Storm Bay and D'Entrecasteaux's Channel, in 1794. He passed up the Rivère du Nord much farther than the French, which he called the Derwent; and in his passage affixed names to various places, which have effaced those given by the original French discoverers—whose survey, however, to the extent of their navigation, was more correct than his own.

The form of Van Diemen's Land had long been a nautical problem. Captain Hunter, observing the swell of the ocean, deemed the existence of a strait highly probable. Mr. George Bass, surgeon of the royal navy, a gentleman to whom his generous friend Flinders refers with great admiration, resolved to test the conjecture. He had already given proof of intrepidity: in company with Flinders and a boy, he embarked in a boat, eight feet long, called *Tom Thumb*. After escaping great dangers, they returned to Port Jackson with valuable information respecting the coast.

In 1798, Bass obtained from Governor Hunter a six-oared whale boat, six men, and six weeks provisions: with this outfit he proceeded along the eastern coast of New Holland, occasionally landing and obtaining supplies, which enabled him to prolong his absence to eleven weeks. He continued his course until the agitation of the water convinced him that the open sea was not far distant: he discovered Western Port, and a country of great attraction. He explored six hundred miles of coast, one-half of which was hitherto unknown; an enterprise beyond example in nautical adventure, and entitling him to that renown which belongs to his name.

To test this discovery, the governor authorised Lieutenant Flinders and Mr. Bass to sail through the strait in the *Norfolk*, a colonial sloop, of 25 tons. Twelve weeks only were allowed for the voyage, which compelled the navigators to content themselves with a cursory survey.

In October, 1798, they left Port Jackson: after spending

\* Flinders' Introduction, &c.

some time among the islands which crowd the straits, they sighted Cape Portland, a name given it in honor of the Duke of Portland, then secretary for the colonies; thence they passed Port Waterhouse, so called after the captain of the *Reliance*. The first important discovery was Port Dalrymple, called after the hydrographer of the admiralty, Alexander Dalrymple.\* Green Isle, Western Arm, Middle Island, Whirlpool Reach, Swan Point, and Crescent Shore, preserve memorials of the visit in their designations.

They reported Port Dalrymple an excellent place for refreshments: black swans, whose quills covered the beach in countless thousands; kangaroos, of the forest kind; flocks of ducks and teal, and mussels and oysters, were found in abundance.

Proceeding along the coast, they came to a headland, which they called Circular Head, from its resemblance to a Christmas cake. They now approached the solution of the question which had dictated their voyage. They remarked a long swell from the south-west breaking on the western shore: they hailed it with joy and mutual gratulation, and passed in safety the clustering islets in their course: the extreme north-west they called Cape Grim. Proceeding round the western coast, they observed the mountains noticed by Tasman when he visited the island, which in memory of his vessels they called Mount Heemskirk and Mount Zeehaan. They named Point Hibbs after the master of the *Norfolk*. The discoveries of Flinders here may be said to terminate, until he proceeded up the Derwent.

The utility of the strait was highly rated. It secured perpetual renown to Bass, whose name it bears: this was given by Governor Hunter at the recommendation of Flinders, whose candour is always conspicuous in awarding the palm of discovery to those to whom it is due! Not only does the strait curtail a voyage from the Cape by four degrees, but vessels avoid the winds which obstruct navigation round the South Cape and Cape Pillar of Van Diemen's Land, which prolong the passage several days; a point of great importance in the conveyance of passengers.

The *Norfolk* steered into the Derwent by the chart of Hayes. Both Flinders and Bass observe, with indignation, how creeks are magnified into rivers, coves into bays, and a

\* Position of Low Head:—Lat. 41° 3' 30'' S.  
Long. 146° 48' 15'' E.—*Flinders*.



few acres into plains: as Risdon River, Prince of Wales's Bay, and King George's Plains. They corrected his definitions, but left him the honors of discovery. Flinders proceeded to Herdsman's Cove, which he so distinguished for its extensive pasture and plentiful waters.

Bass depicts the Derwent as a dull and lifeless stream, respectable only because the Tasmanian rivers are insignificant!\* To a bay they entered on the western side of Tasman's Peninsula, they gave the name of their vessel, which was built at Norfolk Island, of the pine peculiar to that place.

Flinders continued, after the departure of Bass, to prosecute researches on the coast of New Holland, until the *Reliance* returned home. In that vessel his charts were conveyed, and were published. On a plan being offered by Sir Joseph Banks for completing the survey, the *Investigator* was placed under the command of Flinders, who was promoted to the rank of commander, furnished with a chosen crew, and attended by Westall, a painter, and Brown, a naturalist whose collection added largely to his department of science. Flinders received a passport from the French government, expressed with the usual amplitude. It inhibited all vessels of war from molesting the *Investigator*, and gave right of entry to all ports subject to France, for refitting or refreshment, on condition that nothing were done hostile to that power. This protection was demanded by Lord Hawksbury, of M. Otto, the celebrated representative of the Republic in England. Flinders had proposed to visit Van Diemen's Land, but had been partly anticipated by the *Lady Nelson*, sent from England to be employed as tender to the *Investigator*, and fitted with a keel suited to shallow waters. Brown, the naturalist, remained some time after the expedition was interrupted. He wandered on the banks of the Derwent and Tamar, collecting shrubs and flowers during a stay of several months; and although some specimens of plants were lost in the *Porpoise*, not one out of 3,900 species was wanting.†

In June, 1803, Flinders passed the north coast of Van Diemen's Land: eighteen men were lying in their hammocks almost hopeless of recovery, some of whom died before the vessel entered Port Jackson, and several afterwards. A survey was instantly held, and the *Investigator* was con-

\* Collins, vol. ii. p. 183.

† Remarks by Robert Brown, F.R.S. Appendix to Flinders, vol. ii. p. 533.

demned: the hull was found rotten, both plank and timbers, and it was declared that reparation was impossible. On inspecting her condition, Flinders expressed great astonishment, and remarked that a hard gale must have sent her to the bottom.\*

The volumes of Captain Flinders, though of vast scientific worth, are not greatly interesting to the general reader, except when he tells of his trials, which were many. His work was patronised by the admiralty, and he had the prospect of reward; but on the day of publication, fame ceased to be valuable to him,†—he cast that anchor which is never weighed.

A long imprisonment in the Isle of France, and the mental anxiety inseparable from a strong sense of injustice, it is said, destroyed him. His case may be told in few words: the *Investigator* was condemned as unfit for service, and Flinders embarked at Port Jackson on board the *Porpoise*, in company with the *Cato* and the *Bridgewater*. When passing through Torres Straits, at between eight and nine knots, they saw breakers a-head. Before signals could be made, the other vessels were seen hastening to the same destruction. They hauled to the wind across each other; a collision seemed inevitable: a death-like silence prevailed during the awful crisis; but happily they passed off side by side. Instantly, however, the *Cato* struck on the reef, and was totally lost. All hands were preserved, except three boys; of these, one spent the night on a spar, bewailing his unhappy lot: four times he had embarked in different vessels, and each time had been wrecked; this was the last, for before morning he disappeared. The *Bridgewater* was yet safe: she was seen at dawn; but while awaiting her help, the captain, with a selfishness happily not common—without even sending a boat to pick up a cast-away—proceeded on his voyage.‡ He reached India in safety; sailed for Europe, and was never heard of more: the people he had abandoned were all rescued.

This was effected by Flinders. A cutter was built and provisioned from the stores saved on the reef: in this, which he called the *Hope*, he set out for Port Jackson, 750 miles

\* *Flinders*, vol. ii. p. 275. Jorgenson, the Dane, who was a seaman on board the *Lady Nelson*, tender to the *Investigator*, stated, in his rattling way, that she was in good condition, and absurdly insinuated foul play. The *Investigator* was cut down, and returned to Europe in charge of Captain Kent, R.N.

† *Quarterly Review*, 1814.

‡ See *Flinders*, vol. i. p. 305.



distant. There he obtained the assistance of two vessels, beside the *Cumberland*, a colonial schooner of 29 tons. The inhabitants, unsolicited, sent many presents to the sufferers, who soon hailed the arrival of Flinders with rapturous cheers.

Having performed this duty, he proceeded towards England in the *Cumberland*, with seven men and three officers; but finding that she was unable to bear the voyage, he resolved to confide in the honor of the French, and present his passport at the Mauritius. There he was detained a prisoner six years; first charged with imposture, then treated as a spy; and when these imputations were refuted, he was accused of violating his passport. The French had found in his journal a wish dotted down to examine the state of that settlement, written when a stranger to the renewal of war. Some doubt seems to have been really entertained, for the moment, respecting him; but his long detention after his release was promised, was ascribed to the ambition of Napoleon, and the dishonesty of the French Institute, who from Flinders' papers were appropriating to Baudin the honor of discoveries he never himself claimed.

Before the *Investigator* left England, the *Geographe* and *Naturaliste*, under Captains Baudin and Hamelin, visited this island. During a pause in the hostilities of Europe, the French government obtained from Mr. Addington, then premier, a safe conduct for this expedition. The terms granted entitled them to freedom from search; to supplies in any English colony, notwithstanding the contingency of war: it being well said by the French, that the promoters of scientific knowledge were the common benefactors of mankind. While Flinders was prosecuting his voyage he met Baudin on the coast of New Holland, at a place thence called Encounter Bay. The interview was civil, rather than cordial; both nations were competitors in science, and rivals are rarely kind. Yet the suffering of the French may be mentioned with pity: of twenty-three scientific men who accompanied the expedition, three only survived. The vessels were ill-provisioned, the water corrupt, and they encountered fearful tempests, in attempting to circumnavigate this island.

Captain Baudin had been directed by his government to examine the eastern coast of Van Diemen's Land, the discoveries of D'Entrecasteaux, and the channels and rivers of the coast. The surgeon of the *Geographe*, Monge, fell by an attack of the natives, and was buried on the spot which

bears his name.\* The French surveyed the eastern coast, and finally determined the position of the Frederick Henry Bay of Tasman. They examined the intricacies which had escaped the observation of earlier navigators, who erroneously numbered the islands on their charts, and thus overlooked the bays. They coasted between the main and the Schoutens, and gave the name of Fleurieu to the Oyster Bay of Cox. They then passed through a strait heretofore unnoticed, which divides the Schoutens and Freycinet's Peninsula. Their survey was minute, and sometimes three boats were employed in different directions. The French vessels parted company, and the *Naturaliste*, after a long search for her consort, proceeded to New South Wales.

Baudin, of the *Geographe*, was far more unfortunate. Having touched at his land of Napoleon, instead of returning through Bass's Strait to Port Jackson, he resolved to pass the south cape of Van Diemen's Land. Throughout the passage he experienced the most fearful storms: the darkness at night often prevented the execution of naval manœuvres, and the vessel was drenched with water. The condition of the crew was terrible; "cries of agony made the air ring:" four only, including the officers of the watch, were able to keep the decks. After beating about Port Jackson for several days, a boat appeared which had been dispatched by the governor, who saw the French were unable to manage the vessel. By a change of diet, they speedily recovered.

When at Port Jackson, Flinders showed his discoveries to the French, who admitted the justice of his prior claim, but with little sincerity.

M. Baudin died: Captain Hamelin, of the *Naturaliste*, returned to the Mauritius. He eulogised the conduct of the colonists to extravagance;† but it is mortifying to find, that

\* This statement, after Rev. Mr. Gell, is erroneous. Mougé died from diseases occasioned by the climate of Timor, and the hardships of the voyage (See Peron's work). He arrived in an exhausted and consumptive state: when he attempted to land (20th January, 1802), he fainted, and was instantly conveyed on board. He went no more on shore, but to the grave. He was buried at the foot of a tree, at Maria Island, and the name Point Mougé was given to the spot.

On the 17th January, the French were attacked by natives at Swan Port, and Mougé was probably of the party. A native attempted to snatch the drawings; "then to strike down our weak friend, when he was prevented by those who ran to his assistance." The French say, they loaded them with favors, and did not avenge this violence. It is, no doubt, this account which Mr. Gell confused with the death of Mougé.

† "The famous northern confederacy placed England on the verge of destruction, and Captain Hamelin had reason to fear that he should not have been



soon after, having captured a small English settlement, he burned the property he could not carry off; and invited upon deck the ladies, his prisoners, to witness the devastations of their late peaceful dwellings.

The misfortunes of the distinguished navigators, whose success has been recorded, fully equalled their fame. The fate of Cook belongs to a story which mingles with our early remembrance. A child need scarcely be told, that after a career eminently glorious to his country and profession, while attempting to restrain his men who were firing to protect him, he fell by the dagger of a savage.

His colleague, Captain Clerke, who attended him through all his expeditions, did not long survive him. Resolved to complete his instructions, he remained in the neighbourhood of Kamschatka, which hastened the crisis of a consumption. He was buried beneath a tree at the harbour of St. Peter and St. Paul, and an inscription pointed to his grave.\* This was found by M. Perouse defaced, who restored it. On his arrival at Botany Bay, he interred the naturalist of his expedition: the memorial he set up was destroyed by the natives, and Governor Phillip repaid, by the substitution of another, the honor done to his own countryman.†

De L'Angle, the companion of Perouse, with eleven officers and men, lost their lives by a misunderstanding at the Navigators' Isles: the manner of his own death may be inferred from the native tradition.‡

allowed to remain in port, or at least should be refused succour; but the English received him with liberality, *grande et loyale*: the first houses at Port Jackson were open, and the whole resources of the colony were at the disposal of the French captain." " Oftentime did they repeat that excellent maxim, that France first inscribed on the code of nations: *causa scientiarum causa populi*—the cause of science is the people's cause. So writes M. Peron; but the benefit of these sentiments was denied Captain Flinders.

\* *Cook's Voyages*.

† *Tench's Narrative*, p. 99.

‡ " The *Asirolabe*, M. de la Perouse, and the *Boussole*, M. de L'Angle, were lost on the S. W. side of Manicolo. On one stormy dismal night, the oldest natives state, the vessels were blown upon a reef. One was a complete wreck by day-light, and all hands perished! From the other, however, some of the crew managed to effect a landing, when many of them were massacred as they gained the shore, the natives taking them for white spirits, with long noses (their cocked hats being considered a part of the face!). As soon as the unfortunate mariners were proved to be human beings, those that had escaped death from the waves and the savages were allowed to remain unmolested. A small vessel was built from the wrecks, which spot Captain Dillon saw; and as soon as the bark was ready, the survivors, with the exception of two, left Manicolo, and have never been heard of since! The natives further represented, whilst on the island, that the strangers were continually looking at the sun, and taking their usual observations. So late as six years ago, the two Frenchmen were

The end of D'Entrecasteaux and Huon, was hardly less melancholy : both commanders were buried by their crews ; the admiral at Louisiade, and Huon at New Caledonia. The vessels were detained by the Dutch at Java, and many of the seamen died in captivity. There the calamities of their country became known to them : some sided with the royalists, others with the jacobins, but few regained their native land ; among these, however, was Labillardière.\*

The fate of Captain Flinders is already told ; that of Dr. Bass is involved in obscurity. A rumour that he was alive in 1812, in South America, was circulated in London.† In the colonies it was reported, that the vessel in his charge foundered at sea ; others alleged that he attempted a contraband trade in the Spanish colonies, was taken prisoner, and with his companions sent to the quicksilver mines, and there died.‡

The whale-boat of Bass, which first swept the waters of

alive ; but one joined a party of the natives in a war, who were defeated : the other died at Manicolo about three years since. Captain Dillon has secured several nautical instruments, many silver spoons, a silver salver, which are all marked with the *fleur-de-lis* ; a pair of gold buckles, some China ware, a Spanish dollar, a piece of the ornamental work of the stern of a ship (with the arms of France) much decayed ; several brass sheaves belonging to a frigate's topmast, a composition pump, copper cooking utensils, a large quantity of iron knees ; the silver handle of a sword-guard that was taken to Calcutta in the *St. Patrick*, which led to this important discovery, and which bears the ciphers of the unfortunate Count ; several large brass guns, which were found where one vessel was totally wrecked ; together with about four or five tons of other valuable and recognisable articles. Most of the houses, or huts, were found to have bags suspended to their sides, and those contained human skulls in a decaying condition ; but whether they were of European or aboriginal extraction, in the absence of an able phrenologist, could not be ascertained."—*Sydney Gazette*, January, 1828.

The following curious relation, is of a dream of John Maatzuiker, whose name is given by Tasman to a rock on the coast. On the 11th of Feb., 1662, he dreamed, " that he saw Arnold de Vlaming, member of the council of India and admiral of the fleet, who sailed for his native country on the 23rd of December, 1661, in extreme danger, and heard him call several times for help." The dream was repeated : " he then remained awake, noted the day," &c., " sealed it, and gave it to the other members of government." " Accounts were brought from the Cape, that the same day his ship and some others had sunk with man and mouse." " The paper still remains at Batavia, or did twenty years ago."—*Collection of remarkable Dreams*, by Dr. Wm. Greve. Amsterdam, 1819. The story is taken from *Old and New West Indies*. By François Valentijn, vol. iv. p. 312.

\* Rossel, the editor of *D'Entrecasteaux's Voyage*, on returning home—ward was captured by the English, and being a royalist was employed in the admiralty ; but when emigrants were permitted to return, he went home, and was patronised by Napoleon. His account of D'Entrecasteaux is more favorable than that in the work of Labillardière.

† *Penny Cyclopædia* : art. Bass.

‡ *Ross's Almanack*, 1835.



the strait, was long preserved at Port Jackson. Of its keel snuff boxes were wrought, and regarded as valuable relics. A fragment, mounted with silver, engraved with the particulars of the passage, was presented to M. Baudin, as a memorial of the man whose example had stimulated colonial discovery.

Flinders\* predicted that the name of Bass would be conspicuous among the benefactors of mankind: the glory of his own will enlarge with the value of his discoveries. They resulted not from accident, which may give reputation to success without merit, but were the reward of prudent enthusiasm. A small community cannot, indeed, rear a monument worthy the destinies of their names: private memorials may be perishable, like the sympathies which inscribed them, but a future and opulent era will display the moral grandeur of their enterprise, and posterity will pay public honors to their fame.

At the cost of £250, Sir John Franklin erected an obelisk on the rock of Stamford Hill, Port Lincoln, with the following inscription :—

This place,  
from which the gulf and its shores  
were first surveyed,  
on the 26th of Feb., 1802, by  
MATTHEW FLINDERS, R. N.,  
commander of H.M.S. *Investigator*,  
and the discoverer of the country now called South Australia,  
was  
on 12th Jan., 1841,  
with the sanction of Lient.-Colonel GAWLER, K.H.,  
then Governor of the Colony, then set apart for,  
and in the first year of the  
Government of Captain G. GREY,  
adorned with this monument,  
to the perpetual memory of the illustrious navigator,  
his honoured commander,  
by JOHN FRANKLIN, Captain R.N., K.C.H., K.R., Lt.-Governor of  
Van Diemen's Land.

## SECTION II.

THE settlement of New Holland was proposed by Colonel Purry, in 1723: he contended that in 33° south, a fertile

\* *Introduction*, p. 120.

region would be found, favorable to European colonisation. He offered his theory to the British government, then to the Dutch, and afterwards to the French; but with little encouragement. His views were submitted to the Academy of Sciences at Paris, who replied that "they could not judge of countries they had not seen."\* Thus the project slept, until the great English navigator in 1770 gave certainty to what had been conjecture.

To Dalrymple, the hydrographer, the impulse of this enterprising era is largely due. He fully believed that a vast southern continent must exist, to balance the antipodes. So firm was his conviction, that he defined its extent as "greater than the whole civilised part of Asia, from Turkey to the extremity of China. Its trade would be sufficient to maintain the power of Great Britain, employing all its manufactories and ships." The position of this region of fancy was traversed by Cook, who found nothing but ocean. The doctrine of terrestrial counterpoise was disturbed; he, however, alighted on a great reality.

The description of New South Wales by Cook and his companions, which charmed the public, attracted the attention of the crown; and Botany Bay, named on account of the variety and beauty of its vegetation—long known through Europe as a region of gibbets, triangles, and chains; to be celebrated hereafter as the mistress of nations—was selected for a settlement. 565 men and 192 women, the pioneers of a larger division, were embarked under the charge of a military force composed of volunteers; comprehending, besides the staff, sixteen commissioned officers.

The fleet consisted of H.M.S. *Sirius*, *Hyena*, and *Supply*; six transports and three victuallers: they assembled at the Motherbank on the 16th March, and sailed on the 13th May, 1787.† They touched at Teneriffe, and then at the Cape. Separated into two divisions, they reached their destination within forty-eight hours of each other. On the day of their junction, dense clouds threw a gloom over the sea; but they rejected the omen, and believed that they had seen "the foundation, and not the fall of an empire." Having found the bay unsuitable for location, they proceeded to examine the port called after Jackson, a seaman, who observed it from the mast, and immortalised his name. As they passed the capes, which form an entrance, they were in

\* *Literary Chronicle*, 1822.

† The incidents of the voyage are related by Captain Tench.



raptures with the scene:—the tall mouldering cliffs; the trees, which touched the water's edge; and the magnificent harbour, four miles in length, begirt with a luxuriant shore.

It was on the 7th February, 1788, that the Governor was inaugurated: an area being cleared for the purpose, the military marched to the ground with music, and colors flying; 750 convicts, 212 marines and their officers, were assembled. The standard of England was unfurled, the commission of Phillip, the first governor, published, and the courts of justice proclaimed. The usual formalities being complete, Phillip turned to the prisoners, and declared his intentions. He had resolved to cherish and render happy such as might deserve his favour; but to allow the law its course with the impenitent and unreformed. In such language we discern the sentiments which prevailed: banishment, not punishment for past crimes, was implied in the cheering alternative. From that moment he possessed authority to manumit not less absolute than the sovereign, but immeasurably more power to avenge.

Those who first entered New Holland, and witnessed the elevation of the royal standard on the shores of Port Jackson, described in terms of despondency its barren soil, barely compensated by its salubrious atmosphere. Contemporary political writers looked coldly on the infant establishment, as the diseased and hopeless progeny of crime: one, which could never recompense the outlay of the crown, either by its vigour or its gratitude. The projects entertained, in connection with commerce, were the growth of flax and the supply of naval timber, both of which had been reported by Cook as indigenous to Norfolk Island. "When viewed in a commercial light," Captain Tench observes (writing in 1789), "the insignificance of the settlement is very striking." "Admitting the possibility," he continues, "that the country will hereafter yield a sufficiency of grain, the parent state must long supply the necessities of life. The idea of breeding cattle sufficient to meet the consumption, must be considered very chimerical." Such desponding sentiments mostly attend the first stages of colonisation; but in a much later period, the enterprise was regarded with scarcely less suspicion: "Why," said a celebrated critic, "we are to erect penitentiaries and prisons, at the distance of half the diameter of the globe, and to incur the enormous expense of feeding and transporting its inhabitants, it is extremely difficult to discover. It is foolishly believed, that the colony of Botany Bay unites our moral and commercial interests,

and that we shall receive, hereafter, an ample equivalent in the bales of goods, for all the vices we export."\* With what obstinacy an idea once mooted is cherished, may be inferred from an opinion afterwards expressed by an authority of still greater pretension:—"The most sanguine supporter of New South Wales system of colonisation, will hardly promise himself any advantage from the produce it may be able to supply."† Its corn and wool, its timber and hemp, he excludes from the chances of European commerce, and declares that the whale fishery, after repeated failures, had been relinquished!

It is not less instructive than pleasing, to notice the past epochs of opinion: we find consolation against the dark clouds overshadowing the future, by discovering how many forebodings of ancient seers have vanished before the light of the event.

These discouraging views were not, however, universal. Many distinguished men imagined an advancement, which our age has been sufficient to realise. To commemorate the foundation of the colony the celebrated artist, Wedgwood, modelled, from clay brought from the neighbourhood of Sydney, an allegorical medallion, which represented Hope encouraging Art and Labor, under the influence of Peace.‡

\* *Edinburgh Review*, 1803.

† *Quarterly Review*, 1814.

‡ On this medal an author, quoted in *Phillip's Voyages*, ventured a poetical prophecy, which has at least the merit of truthfulness:—

#### VISIT OF HOPE TO SYDNEY COVE.

*Written by the author of the Botanic Garden, 1791.*

Where Sydney Cove her lucid bosom swells,  
Courts her young navies, and the storm repels;  
High on a rock, amid the troubled air,  
Hope stood sublime, and wav'd her golden hair.  
"Hear me," she cried, "ye rising realms record  
Time's opening scenes, and Truth's unerring word:  
There shall broad streets their stately walls extend,  
The circus widen, and the crescent bend;  
There, ray'd from cities o'er the cultur'd land,  
Shall bright canals and solid roads expand.  
Embellish'd villas crown the landscape scene,  
Farms wave with gold, and orchards blush between;  
While with each breeze approaching vessels glide,  
And northern treasures dance on every tide!"  
Then ceas'd the nymph: tumultuous echoes roar,  
And Joy's loud voice was heard from shore to shore.  
Her graceful steps descending press'd the plain,  
And Peace, and Art, and Labor, joined the train.

—Governor Phillip's Voyage to Botany Bay.

The French, however, always represented this colony as a masterpiece of policy; an element of Anglican power, pregnant with events. Peron, when dwelling on the moral prodigies of the settlement, declared that these but disguised the real objects of its founders, which, however, could not escape the discernment of statesmen: they saw the formidable germ of great revolutions.\*

The expedition of Baudin was connected by English politicians† with a project of French colonisation. His instructions directed him to inspect narrowly the places eligible for occupation, and it was expected that an Australian Pondichery would become a new focus of rivalry and intrigue. The special injunctions to survey the inlets of Van Diemen's Land, seemed to indicate the probable site of an establishment so obnoxious.

Dr. Bass had, however, already examined this country with similar views, especially the margin of the rivers. To him no spot on the eastern side of the Derwent appeared to equal the neighbourhood of Risdon Creek, around which he observed an expanding area of fertile land. He delineated not less favorably the valley of the Tamar. This country he considered preferable to New South Wales: with a greater proportion of fertile soil, more amply supplied with water, and well adapted for colonisation.‡

\* Vol. i. p. 12.

† *Quarterly Review*.

‡ *Collins's New South Wales*, vol. i. p. 180.

# **HISTORY OF TASMANIA.**



**FROM 1803 TO 1824.**





## FROM 1803 TO 1824.

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### SECTION I.

THE establishment of a settlement in Van Diemen's Land, perhaps thus hastened by the jealousy of a rival power, was at first chiefly intended to relieve Port Jackson. Fifteen years had elapsed since its foundation, and from six to seven thousand prisoners had been transported thither : dispersion became necessary to security—to repress alike the vices of the convicts, and the growing malversation of their taskmasters. The want of prisons, or places of punishment, and the indolence and intemperance of emancipist settlers, endangered authority.

In 1800, the transportation of the *defenders* from Ireland, appears to have created continual anxiety : a committee of officers was formed to examine persons suspected, when Harold, a priest, was arrested, and accused his fellow prisoners. His testimony was insidious, and discredited ; but the alarm led to the formation of a volunteer company of a hundred persons, who armed for the suppression of rebellion. The more distrusted of the Irish prisoners were conveyed to Norfolk Island ; there, some months after, a conspiracy was detected to massacre the officers, and seize the island. On the night fixed for action, the plot was discovered. An Irish servant, muttering words of compassion, was overheard by his master : he was induced to explain, and was immediately taken to Major Foveaux, the officer in command. The danger was imminent : the warmth of the season (December) had tempted the soldiers to slumber with open doors, and it was said that the sentinels were implicated who that night kept watch. These being changed, and other precautions adopted, the plotters postponed their design ; and next day were marched to church without suspicion. The door was beset with soldiers : the leaders were arrested ; one executed—and on the following day, the blacksmith,

charged with fabricating arms, was also hung. The necessity for dispensing with the forms of law was not made out, and these summary punishments were censured. That the danger was not imaginary, may, however, be inferred from the after attempts at Port Jackson.

The military force of New South Wales, drawn together by a love of adventure, or the hope of gain, when their own status was assailed, were often exacting and severe: but they slightly sustained the moral strength of the government. To select mistresses from the female prisoners was one of their earliest and most valued prerogatives, who, standing in this equivocal relation, became their agents and sold their rum.

The Governor, after struggling to abate the abuses around him, yielded to a pressure which seemed irresistible. He endeavoured to mollify by his liberality, those he could not govern by restraint: he multiplied licenses for the sale of rum, and emancipists aspired to commercial rivalry with the suttlers in commission. The chief constable was himself a publican, and the chief gaoler shared in the lucrative calling, and sold spirits opposite the prison.

The moral laxity which prevailed, produced its natural consequences—violations of discipline, which led to great crimes. The offenders, to escape immediate punishments, retreated to the remote districts; occasionally sheltered by the emancipist cotters. The feeble resistance offered to their depredations, inspired, and almost justified the prisoners in the hope, that the common bondage might be broken. A large agricultural establishment, belonging to the government, at Castle-hill, Parramatta, employed many Irishmen implicated in the recent disorders of their country. These prompted the rest to attempt to recover their liberty, but they were subdued by the military under Major Johnstone: some were shot, and several executed.

In this unsatisfactory condition was the colony of Port Jackson, when Van Diemen's Land was occupied. Its remote distance, its comparatively small extent and insular form, fitted it for the purposes of penal restraint—a place where the most turbulent and rapacious could find no scope for their passions. Its ports closed against commerce, afforded few means of escape. In New Holland, labor and produce were redundant: overwhelming harvests reduced the price of grain so low, that it was rejected by the merchants; goods could not be obtained in exchange;\* and the convicts at the

\* *Wentworth's New South Wales*, p. 210.



disposal of government were a burden on its hands—almost in a condition to defy its authority. Thus, Van Diemen's Land was colonised; first, as a place of exile for the more felonious of felons—the Botany Bay of Botany Bay—

“ And in the lowest deep, a lower deep !”

Lieutenant Bowen, in the *Lady Nelson*, set sail from Sydney, and in August, 1803, landed at Risdon, on the east bank of the Derwent: his party included a few soldiers and prisoners, and Dr. Mountgarrat, the surgeon. A far more important immigration soon followed.

Port Phillip, on the east coast of New Holland, first discovered by Captain Murray in the *Lady Nelson*, 1799, was surveyed by Flinders in 1802, and in 1803 by Grimes, the surveyor-general. They reported the country to be lightly timbered, to abound in herbage, and gentle slopes suitable to the plough. The port offered an asylum against both war and tempests, sufficient for the fleets of all nations.\*

The establishment of a settlement at Port Phillip being determined on by the ministry of Great Britain, an expedition was forwarded, which consisted of the *Calcutta*, 50 guns, Captain Woodruff, and the *Ocean*, a transport of 500 tons. In addition to the convicts, there were forty marines, four hundred male prisoners, twelve free settlers and their families, six unmarried women, six the wives of prisoners, and six children. It is scarcely necessary to remark, that the morals of the officers, or of the women, were not superior either to the service or to the times. The events of the voyage, worthy of remembrance, were not numerous; it was disturbed by rumours of plots and conspiracies; punishments were not infrequent, and one woman was flogged for stealing the cap of a companion.

The *Calcutta* did not visit the Derwent. On her return to Great Britain, Lieutenant Tuckey published an account of the voyage to Port Phillip, which he surveyed. In the year following (1805), the *Calcutta* was convoy to St. Helena, and encountered the Rochefort squadron. Captain Woodruff determined to engage the whole division: the merchantmen escaped; but the *Calcutta*, in the unequal contest, became unmanageable, and struck her colors. Captain Woodruff was soon exchanged, but Lieutenant Tuckey remained in captivity until the allied armies entered France.

Promoted to the rank of commander, he received charge

\* *Flinders*, vol. i.

of the expedition in 1816, sent to explore the Zaire; but with most of his people fell a martyr to the spirit of African discovery. He is said to have been handsome in person, and generous in hand. "He knew nothing of the value of money, except as it enabled him to gratify the feelings of a benevolent heart."\*

The spot selected at Port Phillip, was ill-chosen as the site of a town, and they found great difficulty in obtaining pure water. These circumstances, represented by Collins to the Governor-in-chief, were thought sufficient to justify a removal to Van Diemen's Land, and long postponed the occupation of a country, inferior to few in this hemisphere; a measure lamented by several of the settlers. A lady, writing to her friends from the banks of the Derwent, censured, in terms of great contempt, the relinquishment of Port Phillip, which she described in glowing language: she seemed alone capable of estimating its future importance; but she pronounced Van Diemen's Land a dreary and desert region, destined never to prosper—thus she forfeited the credit of prophecy.†

Several prisoners attempted to escape; in one instance, with a singular result. Buckley, a man of gigantic stature, and two others, set off, it was said, for China! They rambled for some distance together, and suffered great misery: at last, they parted. Of his companions, Buckley saw no more, and when he returned to the settlement all was deserted. After months of solitary wandering, he found a tribe of natives, by whom he was adopted: he remained among them for three-and-thirty years, conforming to their barbarous customs, and forgetting his own language. Once only he saw the faces of white men; a boat's crew landed to bury a seaman: he endeavoured to arrest their attention; they looked at him earnestly, but took him for a savage—he was dressed in a rug of kangaroo skin, and was armed with

\* *Narrative*: published by authority of the Admiralty, 1818.

† "We arrived in October, 1803: my pen is not able to describe half the beauties of that delightful spot: we were four months there. Much to my mortification, as well as loss, we were obliged to abandon the settlement, through the whim and caprice of the Lieutenant-Governor: additional expense to government, and additional loss to individuals, were incurred by removing to Van Diemen's Land, which *can never be made to answer*. Port Phillip is my favorite, and has my warmest wishes. During the time we were there, I never felt one ache or pain, and I parted from it with more regret than I did from my native land." The following is the endorsement of this letter:—"Dated May 23rd, 1805; received October 10th, 1805—half a year! From an officer's wife, Mrs. Hartley (quere Hopley?), to her sister."—*Collection of Letters, for a History of New South Wales, By a Merchant*. London: Valpy, 1812.



spears. This man still survives: he contributed to the friendly reception of his countrymen; but during his long sojourn, he had imparted no ideas of civilisation.

The *Lady Nelson* and the *Ocean* conveyed the party from Port Phillip to the Derwent. The situation of the camp at Risdon had been found undesirable, they therefore landed at Sullivan's Cove. They arrived in two divisions, on the 30th January and 16th February, 1804. The names of the principal persons are as follow:—Lieutenant-Governor Collins; Rev. R. Knopwood, chaplain; E. Bromley, surgeon superintendent; W. Anson, colonial surgeon; M. Boden, W. Hopley, assistant surgeons; P. H. Humphrey, mineralogist; Lieutenant Fosbrook, deputy-commissary-general; G. P. Harris, deputy-surveyor; John Clarke and William Patterson, superintendents of convicts; Lieutenants W. Sladen, J. M. Johnson, and Edward Lord; 39 marines, 3 sergeants, 1 drummer, 1 fifer; and 367 male prisoners.

Meantime, the *Lady Nelson* was dispatched to Port Dalrymple, and surveyed the entrance of the Tamar: the report being favorable, a small party of prisoners were sent from Port Jackson, under Colonel Paterson, to form a settlement, who landed in October, 1804, and for some time held little intercourse with the settlement on the Derwent. Such were the pioneers of this important colony; and to so many casual but concurring incidents, we owe its existence.

The first annals of the settlement offer few events worthy of record. The transactions of a community, which in 1810 did not comprehend more than thirteen hundred and twenty-one persons,\*—the greater part subject to penal control—could not, unassociated with the present, detain attention for a moment. The discipline which prevailed in Van Diemen's Land, and the results which it produced, will be hereafter related to illustrate transportation; for who would load the colonial fame with details, from which the eyes of mankind turn with natural disgust, or blend them with the fabric of Tasmanian history?

The first Governor-in-chief of Van Diemen's Land, the third of New South Wales, was Philip Gidley King, son of Philip King, a draper, of Launceston, Cornwall, England. At twelve years of age he entered the royal navy: by Admiral Byron he was made lieutenant, and holding that rank in the *Sirius*, he attended the expedition of Phillip in 1788.†

\* Report of Commons on Transportation, 1812.

† *Phillip's Voyage*, p. 95.

He was employed to establish the settlement of Norfolk Island, where his proceedings, recorded in his official journal, and afterwards published in various forms, afforded great amusement and satisfaction. There he united in his person, for some time, the priest and the ruler: he experienced during his residence, most of the anxieties and difficulties incident to such stations, and detailed them with curious minuteness. As a cultivator he was energetic and persevering; but the rats devoured his seed, or torrents washed it away: or a tropical hurricane, which tore up huge trees, overthrew the frail buildings he reared. His people conspired to seize his government; he detected, and forgave them: yet he was not scrupulous in his methods of punishment. A woman he repeatedly flogged, for stealing the provisions of her neighbours. He, however, saw the little settlement gradually improve: it became the favorite residence of the officers; and, as the climate was better understood, the fertility of the soil yielded a surpassing abundance.

King was not inattentive to his own interest, and became the owner of considerable stock. Anecdotes of his humour circulate through the colonies: being asked by a settler to find him a man to perform certain work, he took him into his room and pointed him to a mirror. Again, when a marine was the suitor for some favour, in rejecting his petition he put him through his exercises, which ended in *quick march*. He had the frankness of the sailor, and neither aspired to state nor exacted homage.

David Collins, Esq., long judge advocate of New South Wales, was the first Lieutenant-Governor of Van Diemen's Land. He was present with his father, General Collins, at the battle at Bunker's Hill, and thus witnessed an event accepted by exulting Europe as a signal that British sway over that region was lost. It was the lot of Collins to proclaim the dominion of Great Britain at the inauguration of Phillip, and thus announced the first day of a second and not less valuable empire.

Such incidents teach us that a single life may embrace events beyond the scope of imagination. We are reminded of the most brilliant passage in the oratory of Burke, delivered while the authority of the crown was trembling in the balance of fate. When illustrating how far the realities of the future might exceed the visions of the present moment, he stated that a venerable nobleman, Lord Bathurst, could remember when American interests were a little speck, but which during his life had grown to greater consequence than



all the commercial achievements of Great Britain in seventeen hundred years. "Fortunate man," he exclaimed, "he has lived to see it: fortunate, indeed, if he lives to see nothing which will vary the prospect, and cloud the setting of his day."\*

Collins was favorably known to the public by his *Account of the English Colony in New South Wales*: his work was distinguished by the reviewers, amidst a crowd of publications, as superior to them all.† The stateliness of his style, and the pomp with which he ushers trivial events, were less apparent when the topics were new. In the last page he, however, complains that he had spent nine years in the colonial service, which intercepted the honors of his profession; a case of hardship, he remarks, everywhere admitted,

\* The reader will not be displeased to see the whole passage. On the 22nd of March, 1775, upon moving his resolutions for conciliation with America, Edmund Burke thus addressed the house:—

"Mr. Speaker,—I cannot prevail on myself to hurry over this great consideration. It is good for us to be here. We stand where we have an immense view of what is, and what is past. Clouds indeed, and darkness rest upon the future. Let us, however, before we descend from the noble eminence, reflect that this growth of our national prosperity has happened within the short period of the life of man: it has happened within sixty-eight years. There are those alive whose memory might touch the two extremities. For instance, my Lord Bathurst might remember all the stages of the progress. He was in 1704, of an age, at least, to be made to comprehend such things. He was then old enough—*acta parentum jam legere et quæ sit poterit cognoscere virtus*. Suppose, Sir, that the angel of this auspicious youth, foreseeing the many virtues which made him one of the most amiable, as he is one of the most fortunate men of his age, had opened to him in vision, that when in the fourth generation the third prince of the house of Brunswick had sat twelve years on the throne of that nation, which (by the happy issue of moderate and healing councils) was to be made Great Britain, he should see his son, Lord Chancellor of England, turn back the current of hereditary dignity to its fountain, and raise him to higher rank of peerage whilst he enriched the family with a new one. If, amidst these bright and happy scenes of domestic honor and prosperity, that angel should have drawn up the curtain and unfolded the rising glories of his country, and whilst he was gazing with admiration on the then commercial grandeur of England, the genius should point out to him a little speck, scarce visible in the mass of national interest—a small seminal principle rather than a formed body—and should tell him: Young man, there is America, which at this day serves for little more than to amuse you with stories of savage men and uncouth manners; yet shall, before you taste death, show itself equal to the whole of that commerce which now attracts the envy of the world. Whatever England has been growing to by a progressive increase of improvement, brought in by varieties of people, by succession of civilising conquests, civilising settlements in a series of seventeen hundred years, you shall see as much added to her by America in the course of a single life! If this state of his country had been foretold to him, would it not require all the fervid glow of enthusiasm to make him believe it? Fortunate man, he has lived to see it: fortunate indeed, if he lives to see nothing that shall vary the prospect, and cloud the setting of his day."—*Parl. Hist.*, vol. xviii. p. 487.

† *Edinburgh Review*, 1803.

both by those who could compensate, and those who could only condole.

In his dedication to Lord Hobart, the principal secretary of state, he drops the tone of complaint and disappointment: he tells that nobleman that his private virtues were rendered more conspicuous by the splendour of his talents as a statesman, and that praise could not be interpreted as flattery, when devoted to a name which commanded the veneration of the world. Remonstrances so skilfully advanced could not be unnoticed: Collins was at once raised to the rank of colonel, and the intelligence with which he delineated the proper objects and agents of penal government, exalted him still higher. He dated his dedication in 1802, and embarked the following year as governor of the settlement it had been resolved to form.

## SECTION II.

WHEN Collins determined to relinquish Risdon, after survey and comparison of the places offered to his choice, he preferred the spot on which stands Hobart Town, called after the name of his patron. Imagination has traced in its natural outlines a resemblance to the seven-hilled Roman capital, once the mistress of the world.\* Its chief recommendation was the stream which runs through the centre of the city, whose margin was then beset with brushwood, and choked with prostrate trees: these often obstructed its course, and threw over the adjacent banks a flow of water, and thus formed marshes and pools.†

Hobart Town is built on the west side of the Derwent, a river named after the Derwent in Cumberland, celebrated by Wordsworth, the laureate of England, and the poet of the lakes, who thus associates with its beauties the recollections of his childhood:—

" Among the mountains we were nursed, loved stream !  
Thou near the eagle's nest,  
Where thy deep voice could lull me."  
" ————— Glory of the vale !  
Kept in perpetual verdure by the steam  
Of thy soft breath." ‡

\* *Ross's Almanack*, 1829.

† *Ibid*, 1835.

‡ *Wordsworth's Sonnet to the Derwent*.



The county, including at first half the island, was called after the same nobleman, who was then Lord Buckinghamshire.

The northern settlement, formed by Colonel Paterson,\* was seated on the Western Arm of the Tamar, and called York Town. In describing the site, the difficulty of obtaining water is noticed by Flinders; but by Dr. Bass, the adjacent land was represented as adapted for both agriculture and pasture: he added, "If it should be ever proposed to make a settlement, this part seems to merit particular attention." From this spot the greater part of the new establishment was removed (1806) to the country above the North and South Esk; where the colonists were delighted to discover extensive plains equally suitable for tillage and pasture, where not a tree obstructed the prospect.†

The Tamar was traced, and named by Paterson after a Cornish stream, and the valley of Launceston, after a town in Cornwall, and both in honor of Governor King. At Launceston he proposed to establish a sea port town, for the northern section of the island. Port Dalrymple, as this settlement was then called, was not under the government of Hobart Town until 1812.‡

The first communication between Hobart and Launceston was opened by Lieutenant Laycock and his party, they were nine days in the journey, and their unexpected appearance excited great astonishment at Hobart.|| A loaded cart was subsequently sent to Launceston, and passed over the country without falling a single tree.§

The first Tasmanian house stood on land adjoining the Macquarie Hotel: it was built by Lieutenant E. Lord, of wattle and dab—its windows, like the port-holes of a vessel. That it was the first, constituted its chief claim to

\* Colonel Paterson had been distinguished by his researches in Africa, and had gained considerable reputation as a botanist. This spirit of enterprise and intelligence he always preserved: he directed the government botanical establishment at Parramatta, and the French delineated his attainments with more than their usual enthusiasm. He superintended the exotic plantation provided for the colonies, and the repository of native shrubs intended for the gardens at Kew. His name not unfrequently occurs as an adjunct to the scientific descriptions of the botanist. Formerly acting governor and commander of the military corps of New South Wales, he was not unsuitable for the more direct duties of his office. It is, however, as a naturalist that he is remembered. *He planted trees*: some are still growing amidst the desolation of York Town. He was the first who attempted to improve the grass of the country. He was the author of a volume of travels, published in 1789, entitled, *Narrative of Four Journeys into the Country of the Hottentots and Caffraria, in the years 1777-8, and 9.*

† *Sydney Gazette*, 1806.

‡ *Ibid*, May, 1812.

|| *Ibid*, May, 1807.

§ *Lieut. Lord's Evidence*, Par. Pap., 1812.

distinction : it was considered as an achievement of civilisation—a trophy gained upon the wilderness. All were not so well lodged ; yet such houses are soon reared. Posts, joined by wall plates, fixed in the ground ; woven with wattle rods, plastered with mingled clay, sand, and wiry short grass, and whitened—a grass thatched roof ; a chimney of turf piled on stone, a door and a window : the cottage is finished.

The removal of the settlers from Norfolk Island, colonised in 1788, was the next most important event. On his return to Great Britain, Collins visited that place, in company with Hunter, the late governor-in-chief. On the whole, he represented Norfolk Island as by no means promising to repay the annual cost, and it was resolved to abandon it.

In 1803, directions were issued by Lord Buckinghamshire (Lord Hobart). The opposition of the settlers, and the fear of famine, for sometime occasioned delay. In 1805, only four free settlers had removed. The order was renewed in 1808 by Mr. Windham, then secretary of state, and Captain Bligh directed Captain Piper to compel the colonists to evacuate the island, and even to shoot any one who might retreat to the woods to avoid embarkation.\* They were conveyed to this island chiefly in the *Estramina*, *City of Edinburgh*, and *Sydney* : 254 arrived on 15th October, 1808.†

Norfolk Island, so celebrated for its genial climate and unusual fruitfulness, is of volcanic origin, and contains about 14,000 acres. It lies on the 29th parallel,‡ north of New Zealand: it is nine hundred and ninety miles from Port Jackson, thirteen hundred miles from the Derwent, and until seen by Captain Cook, was probably never visited by man. Norfolk Island has twenty-eight miles of sea shore: its greatest elevation is Mount Pitt: it is a succession of hills and valleys. Its lofty cliffs, which breast the ocean, are crowned by the elegant white wood and the gigantic pine. The wild jasmine and convolvuli, which reach from tree to tree, form bowers and walks of exquisite beauty. Twice in the year the settler gathered his harvest: the lemon, the orange, and the pine, shed their fragrance in profusion, and yielded the richest fruit. Though liable to occasional storms and destructive insects, the husbandman could scarcely be said to toil. Gentle showers frequently refresh the undulating soil, and pour down rivulets to the ocean. Sea breezes cool the atmosphere, and the diseases

\* Johnstone's Trial, p. 337.

† *Sydney Gazette*, 1808.

‡ "After numerous observations, we found it—Lat. 29° 4' 40". Long. 161° 12' East Greenwich."—*Hunter's Historical Journal*.



often incident to such latitudes, are unknown; but no ships can anchor: it is a land unsuited to commerce.

Thus it presented no incitement to exertion: it gave the indolent abundance without labor; it afforded a leisure, in which man is prone to degenerate and sink into the savage. Distillation from the cane produced spirits, more than usually deleterious: unacquainted with the process by which saccharine is crystalised, the settlers were unable to prepare sugar. They found the raw rum destructive, and attributed its fatal effects solely to the leaden worms!\*

In 1800, the population of Norfolk Island comprehended 960 souls:† 3,521 acres of land were granted; divided into farms of from ten to thirty acres each. A station, where rather more refractory offenders were sent, its government varied with the character of each officer. Of the moral condition of the island nothing good could be expected, and little favorable is remembered.

Always a place of banishment, even when a colony, Norfolk Island seemed destined to exhibit the extremes of natural beauty and moral deformity. The language of Holt, the Irish rebel, who spent several months there, might be better suited to a latter period, but expressed the intensity of his abhorrence, not wholly unfounded—"That barbarous island, the dwelling place of devils in human shape; the refuse of Botany Bay—the doubly damned!"‡

On the determination of the government being announced, the settlers manifested great repugnance: the elder people declared they would not quit the country; it was, however, the decree of an irresistible will. The inhabitants were offered a settlement in Van Diemen's Land or New South Wales; mostly, they chose this country. They received from the government whatever would contribute towards reconciling them to the change. Vessels were provided for their removal, their possession in land was doubled, and it was freed from all conditions and reservations. They received cattle on loan, and they were rationed as new settlers from the public stores. That the change was beneficial to the rising generation can hardly be doubted; but the effect on

\* *Backhouse's Journal.*

† Collins.

‡ Holt gives the following curious anecdote:—"The Rev. Henry Fulton was reading the commandments, when Tony Chandler sung out—'turn out, you d—d villians, and launch the boat!' As I was going out, I said to Mr. Fulton, 'I perceive Tony Chandler's word has more power here than the word of God.' Fulton smiled, and shook his head."—*Memoirs*, vol. ii. p. 232.

the parents was generally painful. Time was required to equal the cultivation of the spot they had left, compared with which even Van Diemen's Land seemed blank and barren. Years after, they spoke of the change with regret and sadness.

The settlers, divided into three classes, according to their origin or wealth, were located part in the neighbourhood of Hobart Town, at Pittwater, and New Norfolk, and part at Norfolk Plains. Thirty, forty, or fifty acres was the ordinary grant, until a later period: a large extent was neither possessed nor desired. Many valued nothing but the immediate benefits to which their character as immigrant farmers then entitled them. They drew their rations from the royal stores, and bartered away their homesteads for a few bottles of spirit; and it was no idle boast, that a keg of rum was then worth more than a common farm. Their hopeless and dissipated state is remarked in every document of the times: their frail dwellings soon exhibited all the signs of decay, and their ground was exhausted by continual cropping. Thus the exhilarating influences of youth and vigour, usual in the first steps of colonisation, were here unknown, and a civilising agency rarely counteracted the social evils which prevailed. The transactions of those early days are scarcely colonial: charged with debauch and outrage, they denote a time of social disorganisation—the dark ages found in the history of every country, where men have been their own masters, and remote from a public opinion, which cannot be corrupted or controlled.

There were, however, a few settlers from Norfolk Island, distinguished from the rest by their enterprise and diligence, and who rose to wealth; but in glancing down the list, a colonist observes how few have retained their heritage.

During the administration of Colonel Collins, the progress of the colony was barely perceptible. There were no roads in the interior; no public buildings: the house of the governor was a mere cottage, too mean for the accommodation of a modern mechanic.

The transfer commenced at the close of 1805. The *Sydney*, Captain Forrest, was employed to convey to the Derwent a party of the settlers, and the stock belonging to the governor-in-chief: this was purchased by Mr. George Guest, who sold the sheep at £5 per head, and was repaid in cattle. In the *Sydney*, Joseph Holt, now discharged from restraint, visited Van Diemen's Land, and contributed to its welfare by his agricultural and pastoral experience. He found Collins



still living in a tent. A few acres of land had been cultivated at New Town by convicts, in charge of Clarke, the superintendent: cattle had arrived from Bengal, and sheep from Port Jackson; but the progress of the settlement had hitherto been slow.

In New South Wales,\* gangs of men, stripped to the waist, labored together, and were exposed to rigorous discipline, common to slaves. These methods of tillage were introduced into Van Diemen's Land, where as yet there were no fields prepared for the plough, nor beast of draught to facilitate human toil. The chief overseers were not skilled in cultivation: one had been a shoemaker, the other a tailor; and while they were expecting large returns, they were ignorant that the full ears which promised an abundant yield, were smut, not grain. This early failure was attended with disastrous results.

On the arrival of the *Sydney*, Collins looked narrowly into the probable resources at his disposal, and sent Joseph Holt to examine the land on the Derwent, with a view to future location. He proceeded along its shores, until a ledge of rocks obstructed the passage of his boat: then ascending an eminence, not less in apparent height than the Dromedary Mountain, "I sat down," he writes, "on its top, and saw the finest country eyes ever beheld." This was that extensive district which, from the previous residence of its occupiers, was named New Norfolk. The spot whence he surveyed the subjacent land he called Mount Casha.

Joseph Holt, general of the rebel army of Wexford in 1798, at one time commanded 1,300 men. Memoirs, written by himself, were purchased by the keeper of the Irish records, and were edited by Thomas Crofton Croker. The result of that sanguinary struggle added considerable numbers to the population of these colonies, but on various terms. Holt was an exile, though often treated as a convict. As a commander he displayed great natural talents, courage, and fidelity. He ascribed his position as a rebel, solely to necessity of choosing between immediate death or insurrection. A neighbour wrecked his property, and denounced him a traitor in revenge: then loyal men were privileged to

\* "At a distance, I saw about fifty men at work, as I thought dressed in nankeen jackets, but on nearer approach I found them naked, except trousers: they had each a kind of large hoe, about nine inches deep and eight wide, and the handle as thick as a shovel, with which they turned up the ground."—*Holt's Memoirs*, vol. ii. p. 79.

condemn without trial, and slaughter on the spot. In New South Wales, Holt was often suspected of sedition: he was imprisoned, and was forwarded to Norfolk Island without trial; on returning to Port Jackson, he visited the Derwent. Of Collins, Holt speaks with great enthusiasm, as the most lenient of the governors, and the finest of gentlemen: when he entered the forests, absconders would fall down on their knees before him, and obtain his forgiveness.\*

Holt's notices of this place are scanty, and of the people more so; but he observes that the daughter of Mrs. Hayes was a "beautiful girl: the prettiest violet I saw growing on the Derwent." Of such charms he was no mean judge.† Collins was desirous that Holt should settle on the Derwent, and wrote to Governor King for his consent: the knowledge he possessed of the treatment of stock, it was thought, would have been useful; but he resolved not to move farther from the port of embarkation. He at length returned to Ireland, with £2,000—a step he lived to deplore.

The settlement was early involved in great difficulties. The hoe, the usual implement of husbandry, effected but a slow and discouraging progress: supplies from Port Jackson were forwarded in small quantities, and were soon altogether interrupted. In 1806 a disaster occurred, which reduced the elder colony to severe privation. The tempting fertility of of the land bordering on the Hawkesbury, the Nile of this hemisphere, induced the petty farmers, whose homesteads dotted its margin, to overlook its dangers. An inundation, remembered as the *great flood*, exceeded all former devastations: vast torrents, of which the origin was unknown, descended from the mountains, and pouring down with prodigious violence, suddenly filled and overflowed the channels of the river; and rising to the height of sixty and eighty feet in a few hours, swept away the stacks of corn, the live stock, and even the dwellings. A vessel approaching the coast, saw fragments of the floating ruins many miles distant from the shore. Thus, lately possessing

\* The work is written with considerable strength of delineation; although his accounts are not quite safe authority for the character of his enemies. His words he spelled after a provincial pronunciation: thus, describing the crew of the *Sydney*, he writes, instead of Sepoys and Lascars, "Saypies and Glas-cars."

† Of the women at Rio, he says—"Their skin is equal in clearness to the skin of a new laid egg: their eyes black as sloes; their hair like polished jet; their teeth as even as rows of printing, and as white as pearls; their eye-brows like those of a doll: their feet and legs, as if they were modelled in wax-work. They are the most complete patterns of the neatest form of a woman!"



a superabundant store, the poor suffered extreme destitution, and the price of maize and wheat rose to £5 and £6 per bushel.\*

Unable to succour this colony, the government left it to its own resources, and for several years the scarcity continued with various intensity. The kangaroo hunters were the chief purveyors of food. The officers allowed servants, sent them to the woods, and sold their spoil to government. Considerable profits were made by the more successful: the commissariat allowed 1s. 6d. per lb., and the foundation of some fortunes were laid by persons whose servants were faithful and expert. A marine, assisted by two convicts, delivered to the king's stores, 1000lbs. of kangaroo per month, and continued in this occupation for several years. A few coarse biscuits were distributed while they lasted, but the substitute for bread was the dried and pounded flesh of kangaroo! The government, unable to feed, could no longer task the prisoners: to lessen the pressure, they were sometimes permitted to disperse in search of subsistence, and thus laid the foundation of those lawless habits which afterwards brought the colony to the verge of ruin.

The *Sydney* had been chartered to India for wheat, but was lost, and the colony disappointed of the expected relief. When this calamity became known, a second effort was made: Colonel Paterson, while acting Governor of New South Wales, contracted with Captain Bunker, of the *Venus*, to bring a cargo of wheat from Bengal. It was not until 1810, that she anchored in the Derwent: the dread of famine was removed, and wheat was now valued at 12s. a bushel. The change of seed enabled the farmers to clear their ground of that mixed and inferior grain which had disappointed all attempts at agricultural independence.†

When at Bengal, the captain of the *Venus* received from the governor two prisoners, supposed to be cast-aways from a vessel seized at Port Jackson. Stewart, formerly a lieutenant in the navy, secretly contrived a plan to take the *Harrington*, a vessel richly laden, and provisioned for a long voyage. The wind blew fair as she lay in Sydney harbour, a tempting prize: embracing the favorable moment, Stewart called together several companions whom he could trust, and submitted his project, at the instant proper for its execution—the first successfully attempted by prisoners. Thus,

\* Wentworth.

† *Derwent Star*, January, 1810.

before suspicion was awakened, he had seized a boat, hurried on board, mastered the crew, and was scudding before the breeze. But at sea his good fortune forsook him: the *Harrington* was recaptured by the *Greyhound*, and both vessels were lost on the coast of Luconia.\*

These pirates were permitted to land at the Derwent, and were left behind by the *Venus*. They were found at the house of Garth, a settler, by soldiers sent to seize spirits secretly landed from the vessel. Mistaking the errand of the soldiers, one of these men called on his comrade to resist them; and being enraged by a refusal, he fired, and inflicted a mortal wound.† Such complicated crime was not extraordinary; but the kind of force necessary in the civil government, and the shelter afforded to outlaws, were symptoms of social disorder, which soon after assumed an alarming character.

It was the misfortune of Collins to be involved with the parties responsible in the deposition of Governor Bligh. This remarkable deviation from the ordinary conduct of British soldiers, has been attributed partly to the composition of the military force raised for that colony, and partly to the temper of Bligh. The officers merged the military character in the mercantile spirit, and were accustomed to enjoy privileges in virtue of their commissions, which they converted into a monopoly of trade. The distance of New South Wales from the centre of commerce, induced the crown to provide for the settlers the miscellaneous articles which are usually kept only by the shopkeepers. At Port Jackson, there were public magazines stored with every requisite for domestic use, such as potters' ware, utensils for the kitchen, and the implements of farming.‡ These were issued at stated prices, rather less than such commodities cost in Europe; but to prevent them becoming the objects of speculation, an official order for every issue, specifying the article, was necessary. Such methods of distribution gave, notwithstanding, ample room for partiality and corruption. On the arrival of Bligh, he found the improvident settlers, discontented and poor, completely in the hands of the martial dealers. Perhaps, from a love of justice, he attempted to rescue them from the grasp of these intermediate agents, who bought their produce at a narrow price, and gave them

\* *Cunningham's Two Years in New South Wales*, p. 201.

† *Derwent Star*, February, 1810.

‡ *Peron's Voyage*.



in exchange goods bearing an enormous per centage.\* Bligh permitted the farmers to draw from the public magazine whatever was necessary for private use, and took their engagement to deliver their grain to the stores at the close of the harvest. This interruption to the customary dealings of the officers, naturally provoked them: Bligh reciprocated their aversion, and resented their disrespect. It is, indeed, stated by Wentworth, that this unfortunate officer renewed in New South Wales, the same tyranny which it is alleged had driven seamen of the *Bounty* to mutiny: that his disposition was brutal, and that he refined on the modes of inflicting torture.†

Bligh was arrested on the 26th January, 1808. A complicated quarrel with Mr. Macarthur, formerly paymaster of the New South Wales corps, arising out of mercantile transactions, was the occasion of the military insurrection. Having refused to attend a summons, Macarthur was apprehended on a warrant, and committed for trial: he was charged with an intention to stir up the people of the colony to hatred of the governor and of government—words of ominous import, when read in the light of colonial history.‡ Except the president of the court, the officers were more favorable to the accused than to the governor, and regarded him as the victim of a common cause. In his address to the court, Mr. Macarthur objected to the judge advocate, as a person disreputable in character, and actuated by feelings of hostility against himself. That functionary then threatened to commit Macarthur for contempt: Captain Anthony Fenn

\* "It was, we must confess, very provoking to see the officers draw goods from the public store, to traffic in them for their own private gain, which goods were sent out for the advantage of the settlers, who were compelled to deal with those huckster officers for such articles as they might require; giving them from 50 to 500 per cent. profit, and paying them in grain."—*Memoirs of Holt*, vol. ii. p. 296.

† The instance given by Mr. Wentworth (p. 202), of a man who was sent by Bligh with a note to the constable, who was directed to flog him, without informing him of its purport, however it might read in London, will not seem enormous to a colonist, who could produce many parallel cases: it was a practice too common.

‡ In 1702, Colonel Bayard was tried in New York, charged with having used divers indirect practices and endeavours to procure mutiny and desertion among the soldiers in the fort, &c. For sending a petition to the home government, which received a few military signatures, against the governor and the ruling faction, he was condemned to death—in the horrid terms included in the penalty of high treason. Before the sentence was executed, Lord Cornbury arrived: the chief justice fled to England; Lord Cornbury, however, it is said, destroyed the factions of New York, by oppressing them both: "and the contest soon began, which ended in the establishment of a free and independent nation."—*Chandler's American Trials*. Boston: vol. i. p. 294.

Kemp interposed, with a threat "to commit the judge advocate himself;" who, seeing among the spectators many soldiers wearing side-arms, and fearing for his personal safety, left the bench. Macarthur again appealed to his military brethren to preserve him from the ruffian constabulary: they immediately ordered the soldiers present to protect him against the peace officers. This interference was represented as an illegal rescue; Macarthur, however, surrendered to the provost marshal, and was lodged in gaol.

The governor resolved to bring to trial the six officers who had repelled the judge advocate, for treasonable practices; and, as a preliminary step, ordered that they should appear before the bench of magistrates, of whom Colonel Johnston, their commander, was one. It was now supposed, that Bligh intended to constitute a novel court of criminal jurisdiction, and that he had resolved to carry to the last extremes the hostility he had declared. Colonel Johnston, as a measure of self defence, was induced to march his regiment to government house, and place his Excellency under arrest—demanding his sword, and his commission as governor.\*

This transaction throughout, caused a very strong sensation, both in the colony and at home. Opinions widely differ respecting its origin and its necessity. That it was illegal, it may be presumed, no one will deny: that it was wanton, is not so indisputable. The unfortunate termination of Bligh's first expedition to Tahiti, the imputations of harshness and cruelty for ever fastened to his name, and the disreputable agents he sometimes employed in his service, made the position of the officers extremely anxious, if not insecure. Bligh had become popular with the expiree settlers, who reckoned a long arrear of vengeance to their military taskmasters; and who, with the law on their side, or encouragement from the governor, might have been expected to shew no mercy. Had Bligh escaped to the interior, the personal safety of the officers might have been perilled. The settlers, led on by the undoubted representative of the crown, would have been able to justify any step necessary for the recovery of his authority, and at whatever sacrifice of life.

Bligh was permitted to embark on board the *Porpoise*†, to

\* *Lang's History of New South Wales*, vol. i. p. 110.

† Dr. Lang states, that "he was obliged to sign an agreement to quit the colony forthwith; but instead of proceeding to England, Governor Bligh landed



proceed forthwith to Great Britain, engaging not to communicate with any intermediate British colony. He bound himself upon his honor as an officer and a gentleman to attempt nothing to the disturbance of the existing government, pending the reference to Downing-street. This agreement he made with Colonel Paterson, who had no part in the revolt. When upon the quarter-deck of the *Porpoise*, he repudiated these engagements, and ordered Lieutenant Kent, then in command, to batter down Sydney, and to restore his authority by force;—a task he declined. He, however, sailed for the Derwent, where his vessel was still lying, when unknown to him Macquarie arrived in New South Wales. Bligh had dispatched information of the insurrection at the earliest opportunity, and the ministers lost no time in forwarding new troops. The ships approached the harbour, prepared to pour in a broadside, but the government was instantly delivered up to the newly appointed head, by Colonel Paterson, the officer in command. The greater part of his official acts were prudently confirmed by Governor Macquarie, although the gifts and appointments of the interim government were declared null and void.

When Bligh arrived at Hobart Town, he was received by Collins with the respect due to his station; he was, however, soon followed by despatches, which informed the lieutenant-governor of the movements at Sydney. Collins, Bligh stated, intended to arrest him; at all events he re-embarked, and the settlers were interdicted from holding communication. A free man, Mr. Belbin, was flogged for the infraction of this order, but afterwards received a grant from the crown in reward for his loyalty. Mr. George Guest espoused the same side: the vessel was ill-provisioned, and he secretly drove down his cattle to the beach, where some were slaughtered for the use of the *Porpoise*.

In extenuation of the conduct of Collins, it will be remembered that Bligh was already deposed, when he appeared in the Derwent; and that his attempted resumption of office was a breach of his parole. The impression prevailed that Bligh, if restored, would exact sanguinary vengeance. The

at the Derwent."—(vol. i. p. 121). And seems rather to extenuate this breach of faith. Were no agreement of this class binding the rigours of captivity and civil strife could never be mitigated. The following is Bligh's own statement:—"I took the *Porpoise* on the terms they proposed to me, and the moment I got the command of the *Porpoise*, I took care to keep it, and would not suffer any of these terms, or any thing which they said to have the least influence on my mind."—Johnstone's trial, p. 33.

union of the officers was requisite to preserve order, even in the most quiet times: when deprived of military authority, it was the moral duty of Bligh to await the interference of the supreme government, and not needlessly expose those whom he was unable to protect, to the double danger of disloyalty and faction.

Bligh returned to Port Jackson: though the time for his honorary restitution was passed, he was received with respectful formality. A proclamation had already been issued, prohibiting suits of law for injuries suffered from the usurping government, and giving indemnity and protection to all who had acted under its authority; but Bligh was empowered to carry home all who might be able to throw light on his deposition. This order must have terminated the government of Collins, had he survived. Colonel Johnstone was tried and cashiered (but permitted to sell his commission), and the mildness of his sentence was attributed by the crown to the extraordinary circumstance of the case.\*

This was the last important occurrence in the eventful life of Collins: he died on the 24th March, 1810, in the fifty-sixth year of his age, having held the administration six years and thirty-six days. His death was sudden: except a slight cold, there was little warning of its approach. He died whilst sitting in his chair, and conversing with his attendant. His funeral was celebrated with all the pomp the colony could command, and 600 persons were present.† The share he accepted in the responsibility of the deposition of Bligh, disturbed his tranquillity, and it was thought hastened his end.

In 1810, Collins attempted to establish a newspaper—*The Derwent Star, and Van Diemen's Land Intelligencer*.‡ Though but a quarto leaf, with broad margin, and all the contrivances which dilate the substance of a journal, it was much too large for the settlement—where often there was nothing to sell; where a birth or marriage was published sooner than a paragraph could be printed; where a taste for general literature had no existence, and politics were excluded. The chief contents were droll anecdotes and odd exploits. The second number contains a rather pompous account of Governor Macquarie's inauguration at Sydney.

\* Horse Guards, July 1811.

† *New South Wales Gazette*, 1810.

‡ Printed by J. Barnes and T. Clark, at the Government Press, Hobart Town.



The next issue, beside a government order or two, describes the feat of Barclay, the pedestrian—a thousand miles in a thousand hours; the wonderful longevity of Joseph Ram, a black of Jamaica, who died in his 140th year; then the greatness of Lambert, whose body weighed 52 lbs. fourteen times told; and who was sent by an inclined plane into his grave. Then follow an eulogy on the governor's profession, one trial, one ship, two births, and one marriage. The notice of a wedding is characteristic and unique—the first published by the Tasmanian press:—"On Monday, 26th ult., R. C. Burrows to Elizabeth Tucker, both late of Norfolk Island. They had cohabited together fourteen years, verifying at last the old adage—*better late than never*."\* Such were the topics of this ephemeral journal, which, however, survived the governor himself. In the number published a few days before his decease, are the following lines:—

"And thou, dear Cobham, with thy latest breath  
Shall feel thy ruling passion strong in death:  
Such in that moment, as in all the past:  
'O, save my country, heaven!' shall be thy last."

Collins was the son of General Arthur Tooker Collins and Harriet Fraser, of Pack, in King's County, Ireland: he was the grandson of Arthur Collins, author of the *Peerage of England*.† At fourteen years of age he was lieutenant of marines; two years after, he commanded the military guard which attended Matilda, Queen of Denmark, to her brother's Hanoverian dominions, and had the honor of kissing her hand. It is said that, three years subsequent, he distinguished himself in that fatal conflict already noticed—the battle of Bunker's Hill. In 1774, he was captain of marines in the *Courageux*, of 74 guns, commanded by Lord Mulgrave, and was present with Lord Howe, at the relief of Gibraltar. At the peace of 1782, he retired to Rochester, in Kent, with his lady, an American, who survived him. The despatch, announcing his decease, was filled with lamentations: "I am sure," said the writer, "when I speak the feelings of my heart on this melancholy occasion, that it is not my single voice, but that of every department whatsoever in the settlement, who with the most heartfelt regret acknowledge him to have been the father and the friend of all." His person was remarkably handsome, and his manners prepossessing: to a cultivated understanding, and an

\* *Derwent Star*, March 6th, 1810.

† *Collins's Peerage*: of venerable authority.—*Quarterly Review*, 1820.

early fondness for literature, he joined a most cheerful and social disposition.

Colonel Collins was buried in the church-yard of St. David's, Hobart Town. To provide a temporary place for public worship, a small wooden church was erected on the spot, and its altar was reared over his grave. This building was blown down in a tempest, and its materials being carried off, left the resting place of Collins long exposed to the careless tread of the stranger. Sir John Franklin, always generous to the memory of official worth, reared a monument, bearing this inscription :—

Sacred  
to the Memory of  
DAVID COLLINS, ESQ.,  
Lieutenant Governor of this Colony,  
and Lieutenant Colonel of the Royal Marine Forces.  
On the first establishment of the colony of  
New South Wales he was employed as Judge Advocate,  
And in the year 1803  
he was entrusted by his Majesty's government  
with the command of an expedition,  
destined to form a settlement at Port Phillip,  
on the south coast of New Holland ;  
but which was subsequently removed to  
Van Diemen's Land.

Under his direction as Lieutenant Governor,  
the site of this town was chosen,  
and the foundation of its first building  
laid in 1804.

He died here on the 28th of March, 1810,\*  
aged 56 years.

And this monument long projected  
was erected to his memory in 1838,  
by direction of His Excellency

SIR JOHN FRANKLIN, K. C. H., K. R.

### SECTION III.

ON the demise of Colonel Collins, the government devolved on Lieutenant Edward Lord, until the arrival of Captain Murray, of the 73rd regiment.

The governor-in-chief visited Van Diemen's Land during Captain Murray's administration. This auspicious event was

\* Collins, according to most authorities, died on the 24th March, 1810.



the subject of great exultation. Macquarie was received with all possible formality and tokens of gladness : a salute from a battery of no great power ; an illumination in the small windows of the scattered cottages ; and addresses delivered by delegates, not bound to declare the number of their constituents.\*

Nothing remarkable is remembered of this visit, except

\* " *To his Excellency LACHLAN MACQUARIE, Esq., Captain-General and Commander-in-chief of his Majesty's Territory of New South Wales and its Dependencies, &c. &c. &c.*

" We, the inhabitants, settlers, and freeholders of his Majesty's settlement established at the Derwent, Van Diemen's Land, impressed with the most fervent zeal for his Majesty's government, and the most profound respect, esteem, and veneration for your Excellency, most dutifully congratulate you on your arrival at Hobart Town.

" When men, whose characteristic is industry, consider themselves governed by an Officer in whom his Majesty has reposed merited confidence, who in order to promote agriculture, encourage morality, efface dissension, and patronise the industrious and deserving part of our community, leaves his seat of government, and exposes himself and his worthy Consort, under many privations, in a small vessel, to the dangers of a coasting voyage on these seas, a natural emulation must necessarily arise in the breasts of the inhabitants to merit, by an inviolable attachment to the laws, and an adherence to the regulations of the colony, the patronage, favour, and protection of such an unequalled Governor.

" We humbly presume to hope that the favorable impressions which our industrious exertions have made on your Excellency's mind on your seeing Hobart Town and its vicinity, will become much increased on your return from that tour through the different settlements which your Excellency's intuitive mind may induce you to make.

" Independent of the high consideration in which we hold your Excellency as the Representative of our Most Gracious Sovereign, we presume to solicit your acceptance of our most unqualified respect for your Excellency's person, and with duty, in the name and on the behalf of the inhabitants in general, subscribe ourselves your Excellency's most devoted servants,

" R. W. LOANE, J. INGLE,  
" T. W. BIRCH, A. WHITEHEAD."

" *Hobart Town, Van Diemen's Land, November 26, 1811.*

" GENTLEMEN,—The address which I have this day the satisfaction to receive from you has been gratifying to me, and I beg you to believe that the inconveniences I have experienced in my voyage to Van Diemen's Land, have been amply compensated in the pleasure I feel on seeing one of the finest countries in the world in a state of rapid improvement by the exertions of his Majesty's loyal subjects settled here, in whose welfare I shall at all times feel a warm interest ; and sincerely hope that the industry so happily begun will be persevered in with success.

" I return you many thanks for the sentiments of regard you have been pleased to express towards me.—I have the honor to be, Gentlemen, your most obedient and most humble servant,

" (Signed) LACHLAN MACQUARIE.

" To Messrs. R. W. Loane, J. Ingle, T. W. Birch, and  
A. Whitehead, the Committee who presented the  
Address from the inhabitants of the Settlement at  
Hobart Town, in Van Diemen's Land."

a new species of pine, very highly valued by artificers. Mr. Birch was rewarded with one year's monopoly of the trade he had opened.

The whale fishery was considerably enlarged : corn was exported ; the plough introduced, and gradually superseded the hoe ; a mill erected ; and (February, 1817) the foundation of St. David's Church was laid. Passage boats connected the banks of the Derwent ; a civil court for the recovery of debts, not exceeding £50, was established. A newspaper—a second time attempted in 1814 without success, when the commercial strength of the community was indicated by two or three advertisements—was at length published under better auspices. On the 1st June, 1816, Mr. Andrew Bent issued the first number of the *Hobart Town Gazette and Southern Reporter*, and thus brought into permanent action an agency which has promoted as well as recorded the advancement of the community. Nor can it be recollected without regret, that he, an undoubted benefactor of the colony, is left to an indigent old age, cut off from the prosperity to which his early labors contributed.

The welfare of Van Diemen's Land was greatly retarded by the number, daring, and prolonged depredations of the bushrangers. In some districts, the inhabitants offered a sanctuary to criminals, and, as their scouts, gave notice of the approach of danger ; while in others the settlers were driven before them. To check their ravages, Colonel Davey declared the whole colony under martial law : he punished with flogging persons, whether free or bond, who quitted their houses by night. Several offenders were captured, and suffered death.\* The inhabitants, to the number of six hundred, expressed their approval of this stretch of power, but it was promptly disallowed by the governor-in-chief. On many previous occasions the same course had been pursued. To constitutional law, the lieutenant-governor was both indifferent and a stranger.

Colonel Davey, when he relinquished his office, remained for some time as a settler ; he was not, however, successful. He returned to England, where he died on the 2nd May, 1823. His contemporaries speak of his character in terms of eulogy. The modern colonist will remember, that the tastes of society have since that period been modified, even in Great Britain ; and that character can never be fairly judged when separated from the circumstances in which it is

\* See vol. ii, p. 129, of this History, for an account of bushranging.



developed. Then, the town was a mere camp : the etiquette of office, necessary when a community is advanced, would be folly in its infancy.

#### SECTION IV.

IN planting the colony of New South Wales, it was requisite to provide a form of government adapted for a community without precedent. That instituted was equally alien from established usage. It conferred powers on the governor beyond the dreams of ordinary princes, and violated all the constitutional guarantees which support the rights of subjects. The American colonies derived their constitutions, some from the prerogatives of the crown, others from parliament, under acts prescribing their structure and limiting their jurisdiction. In some cases the British legislature authorised the crown to convey the powers of government at its own discretion, and its own agents. In the reign of George III.\* the parliament passed the Quebec Act, which defined the powers of Canadian legislation and judicature, and thus established a course that has never since been abandoned.

The immediate design and composition of the Australian colony precluded the forms of constitutional freedom : the object of the laws and regulations were but remotely connected with the ordinary interests of British citizens. Having obtained, therefore, the authority to institute a government, the crown put into commission the powers it received, but left to the local authorities to interpret and apply them.†

The court of criminal jurisdiction was composed of seven officers, of whom the judge advocate was one. It could only assemble on the summons of the governor : his precept determined who, or whether any should sit, and thus regu-

\* 14 Geo. iii. c. 83.

† "Whereas it may be found necessary that a colony and a civil government should be established, and that a court of criminal jurisdiction should also be established, with authority to proceed in a more summary way than is used within this realm, according to the known and established laws thereof." The court, described as above, is then authorised, to try "outrages and misbehaviours, as if committed in this realm would be treason or misprison thereof, felony or misdemeanour."—27 Geo. iii. Nothing is said of legislative power.

lated the jury: as their commander his influence was great—greater, as the dispenser of royal patronage.

The powers of the grand jury devolved on the judge advocate, who framed the indictment, and determined beforehand the probability of guilt: he thus sat in a cause which he had judged already. The prosecutor conducted his own case: witnesses were examined in open court, and the accused was unassisted by counsel. Nor was unanimity required: yet five in seven were necessary in capital cases, to authorise an immediate execution. The judge advocate deliberated with his co-jurors in secret, and the court was re-opened only when they had agreed upon their verdict, and determined the sentence. Thus in ordinary cases the weight of authority in deciding guilt, as well as apportioning punishment, usually rested with an officer officially connected with the government. The operation of this court was liable to serious constitutional objections. It was in the power of the governor to exclude the subject from the protection of the law, by shutting up the court, and by the arbitrary selection of its members to anticipate its decision.

In conducting the business of the court, its members dispensed with the niceties of law, and gave their verdict upon what appeared to be the substantial merits of the case. From the age of fourteen, the first judge advocate had been employed in the royal marine service, and whatever intelligence his writings display, they exhibit utter disregard of rights recognised by the British constitution. His successors in office, for two-and-twenty years, until the appointment of Mr. Ellis Bent, were gentlemen connected with the military profession, who were unassisted, except by such lawyers as the lottery of transportation threw in their way: thus, while they were limited by parliament to a jurisdiction according to the laws of the realm,\* they were more than usually unacquainted with their nature, and indifferent to their observance.

Such were the inherent defects of this form of judicature, from the large influence possessed by the executive; which could determine the time of sitting and the members of the court; which denied the right of challenge, and accepted the concurrence of five voices only in cases of life and death—and those of persons subject to the influence of the governor and unaccustomed to weigh evidence, or to defer to the

\* *Collins*, vol. i. p. 32.



maxims of civil tribunals. But if the constitution of the court was a subject of just complaint, the creation of new offences by unauthorised legislation, was still less acceptable to English statistes.

The court proceeded smoothly, so long as none but convicts or persons of trivial influence were in question; but the dispute with Governor Bligh disclosed the dangers with which it was fraught: the sympathy of the jurors with the accused frustrated his prosecution, and overthrew the executive.

The *esprit du corps* of the jurors occasionally appeared in their verdict: the decision of a cause in which an officer was the aggressor, or one which interested the passions, did not command the confidence of the people.

The jeopardy of justice was illustrated by a dispute, in which the Rev. Mr. Marsden was complainant, and the secretary of the governor the defendant. Mr. Campbell was the censor of the New South Wales press: he admitted an article, which imputed to Mr. Marsden (1817) the abuse of his office as agent for the missionary societies, and of using muskets and gunpowder as articles of traffic with the natives of the Pacific. The judge advocate in this instance was said to attempt to shelter the offender by the influence of his three-fold office—as the law adviser of the governor, the public prosecutor, and member of the court of criminal jurisdiction. His reluctance to admit the evidence, and to take the preliminary steps in the prosecution, and his direction to deliver an inoperative verdict, were held fatal evidences that impartiality could not be secured by uniting functions so inconsistent with each other.

The jurors were not unfrequently interested: in some instances the prosecutor sat as witness and judge, giving the principal evidence in the case in which he was both to decide the guilt and apportion the punishment.\*

The establishment of a court of criminal jurisdiction was alone authorised by the parliament: the necessity for supplemental laws was not foreseen, but was soon perceived. The governors assumed the legislative authority, under the disguise of orders and regulations, often contrary to the principles of English law, and sustained by penalties unknown in Great Britain. These were not collated until a late period: their provisions were imperfectly promulgated. In enforcing them, the governors relied on the impotence

\* *Bigge's Jud. Report*, p. 34.

of resistance, and justified their enactment on the ground of expediency.

Had the parliament conveyed a legislative power, the ordinary precautions and limitations would have been embodied for that purpose: thus the free subjects of the king would have known the extent of their liabilities, both to prohibitions and penalties. An unfettered despotism drew no distinction, but rejected all questions of legality as contumacious.

Among the subordinate officers, were some high in rank, natives of France, who had emigrated during the revolution, or had by incurring the hatred of its government deserved the patronage of our own. Profoundly indifferent to the rights of freedom, and ignorant of the forms or proper subjects of judicial investigation, an "order" was far more sacred in their eyes, than the volumes of Blackstone. English gentlemen might have recalled the solemn warnings of history which check aggressions on private liberty, but an exiled adherent of Bourbon princes was not likely to be embarrassed by educational prejudices. Not that British officers were really more scrupulous, or offered by their habits a better guarantee for the legality of their administration.\*

The minor offences of prisoners passed under the summary adjudication of magistrates. They often indulged in the lowest humour or furious passion: they applied torture to extract confessions, and repeated flagellation until it became dangerous to life.

The long delay of legislative remedies, when omissions and defects were discovered, is a proof of ministerial indifference. The crown provided a court of criminal jurisdiction for Port Phillip: the jurisdiction was strictly local, and the judge advocate ceased to act when Van Diemen's Land was occupied; but twenty years elapsed before the deficiency was supplied. Again, the criminal

\* Holt has left a graphic picture of a justice, which must be received, perhaps, with some reservation;—"I was walking with Barrington, the most accomplished pickpocket: he was arm-in-arm with Richard Atkins, Esq. I wished to have some conversation with them. A bottle of rum was produced, and some pleasant conversation about Ireland passed. At length I wished to retire, and Mr. A. said he never allowed any bottle off his table till he saw it emptied. We finished the half gallon bottle, and of course were not a little elevated. Mr. A. acted as a kind of deputy, when Judge Dore was not able, which not unfrequently happened: when spirits were plenty in the colony, he was generally indisposed." Mr. Croker adds, that "Atkins was appointed as a substitute to Collins in 1796, by the secretary of state, until the arrival of Mr. Dore in 1797."



court of New South Wales was limited to islands adjacent to the *eastern coast*.\* The discovery of Bass's Strait proved that Van Diemen's Land was not included in this geographical definition, and the scrupulous or idle judges for a long time evaded the holding of courts in this island, which was thus surrendered to disorder. In the absence of a legal court, the magistrates set up a jurisdiction of their own. Criminal trials were dispatched by the simplest process, and the mixed penalties of a military and civil court inflicted on the assumed offender.† Thus, the negligent provision for the administration of justice secured impunity to crime, or seemed to require an arbitrary tribunal.

The proclamation of martial law, was to relieve the government from the restraints of forms. The facility with which justice could be administered by it, was illustrated at the Castle Hill insurrection: no life being lost on the government side, the victorious troops arranged that every third man convicted should be hanged. They drew the names of the sufferers by lot, and were proceeding with great vigour, when the appearance of the governor suspended the execution.‡ The dangerous usurpation in both Norfolk Island and Van Diemen's Land, led to the hasty sacrifice of life.

The scarcity of corn was once deemed a sufficient justification, when there was no appearance of sedition: at these times the government seized boats, or whatever was deemed useful for the public service, and imitated the most irregular actions of the Stuarts.

The subordinate authorities were supposed to partake the license of their superiors. One commandant, Colonel Geils, fixed a spiked collar on the neck of a free woman; another flogged a female through Hobart Town for abusive language; and another tied up a free man on the spot, for placarding a grievance, when as yet there was no press.§ Davey, having

\* *Bigge's Jud. Report*, p. 2.

At Norfolk Island a court of criminal jurisdiction departed still further from the precedents of civil justice. An act authorised the government to convene a court of four military or naval officers, to decide on questions of life and death, even when free men were implicated.

† "Yesterday, the bench assembled, when a free man, formerly belonging to Port Dalrymple, was found guilty of stealing a silver watch from George Guest, jun., his property, and sentenced to labor for the government for the term of five years, and moreover to receive 500 lashes.—*Derwent Star*, Feb. 6th, 1810.

‡ *Holt's Memoirs*, vol. ii. p. 202.

§ Such punishments were not always unmerited, but they were capricious. A magistrate tied a carter to the wheel of his waggon, and inflicted 300 lashes for



ordered a person to the triangles, answered his remonstrances with a pleasant jest: the sufferer reminded him that he could not flog him; the governor answered that "he would try," and the flagellator soon determined the problem in favor of authority. Indignant exclamations of free men were deemed preposterous by a body of officials, who regarded the diffidence of civil government as absurd, and considered power as the standard of right.

The administration of justice is described by a work of the times:—"I have known," wrote a contemporary witness, "men, without trial, sentenced to transportation by a single magistrate at his own door: free men, after being acquitted by a court of criminal judicature, banished to another of the dependant settlements. I have heard a magistrate tell a prisoner (then being examined for a capital offence, and who had some goods, supposed to be stolen, for which he would not account), that were he not going to be hanged so soon, he (the magistrate) would make him say whence he got them. I have known depositions destroyed by the magistrate."\*

The courts were limited by the laws in force within the *realm*, but the realm was not defined;† and thus what portion of the law was applicable, was left in thirty years' doubt, until the commissioner royal stated that the omission had prevented several executions.‡ The same number of years were required to ascertain whether laws passed in Great Britain subsequent to the era of colonisation were the laws of the colony.

Law officers of the crown were permitted to define authoritatively the import of acts of parliament, and on their official decisions the colonial judge convicted, and the governor executed a criminal.§

The persons commissioned as justices constituted a court in avowed conformity with such tribunals in England, but they adjudicated on the orders of the governor, and inflicted the penalties he appointed; though the supreme court, sitting concurrently with these "benches," rejected the legislation of the governor as invalid, when the basis of an action: one judge supported them by his moral countenance, although he

cruelty to his bullocks; but Dr. Montgarret ordered the blacksmith to be flogged, for presenting his bill!

\* *Mann's Picture of New South Wales*, 1811.

† *Bentham's Plea*.

‡ *Bigge's Jud. Report*, p. 17.

§ *Ibid.*

knew them to be without legal authority.\* Judge Advocate Wylde, however, declared the legislative authority of the governor equally binding with acts of parliament—a doctrine never surpassed by the most subservient advocates of an unlimited monarchy.†

The crown authorised the governor to grant remissions, but while he omitted the formalities requisite to perfect those pardons, the minister neglected to require them. For thirty years the error was undetected, and until a fraudulent creditor evaded a bill due to an emancipist; but several years were allowed to pass, even when the mistake was discovered, before it was fully corrected.

The ministers authorised the governors to grant land to settlers. For forty-six years these delegates divided the domain of their sovereign, as if it were his personal property, and without the consent of parliament, when a court of this colony decided that all such titles were void in law, whether acquired by purchase or under the old quit-rent tenure.‡

Above two hundred thousand pounds had been levied by successive governors since the illegality of taxation was first submitted to the notice of the cabinet. In gathering this money, not only had property been seized, destroyed, and confiscated, but many persons had been imprisoned, and suffered all the miseries of felon bonds: yet when arrears, which the indulgence of the government had permitted to accumulate, were made a subject of legal procedure, the whole fabric of taxation and legislation by the governor's will, fell down.§

The judge of the supreme court could not be insensible to the serious personal responsibility of longer supporting illegal taxation: he privately admonished the governor, who withdrew his actions. An act of indemnity released the ministers who advised, and the governors who enforced their demands, from the punishment of usurpation; and granted them power to do by law, what in defiance of law they had done so long.||

Ingenious aggravations were made to the common penalties of a crime: Collins relates that a witness convicted of per-

\* *Bigge's Jud. Report*, p. 6. *Wentworth*, p. 43. edit. of 1820.

† *Bigge's Report*, p. 48.

‡ *Macarthur's New South Wales: its present state and future prospects*, 1837.

§ *Bigge's Report*.

|| 59 Geo. iii. 1819.



protect their own agents from legal penalties.\* No wonder, with such examples before them, the governors detained or released at their pleasure.

Bentham was the first to protest against this illegal and violent system of government, as opposed to every principle made sacred by the Revolution, by judicial decisions, or by the oaths of sovereigns. He asserted that the movers and ministers of these despotic proceedings were liable, one and all, to the visitations of the most penal laws.† They had legislated without warrant, had detained free persons in bondage, levied illegal duties and imposed unconstitutional restrictions, and had inflicted cruel punishments for crimes invented by themselves. The apology for usurpation, was its obvious importance and general utility; but no one will dissent from the strong indignation expressed by the philosopher, at wanton violations of British law, neglect of personal rights and parliamentary privileges.

Governor King, it is believed, first established customs.‡ Hunter had assessed the property of the colonists, upon obtaining the consent of several, for the erection of a gaol.§ The poorer inhabitants refused to comply with the levy, and were threatened with vengeance: they knew that however useful, such taxes were illegal though otherwise just. Thus, although legislation was not shadowed by the parliamentary act, the governors assumed it in its amplest form. Among the earliest were orders respecting the production and sale of spirits: to this, the oriental penalty was attached—"his still shall be destroyed, and his house pulled down." Infractio of this law was subsequently punished by imprisonment and transportation.

Of torture, to extort confession, we have ample proof, both written and traditional: of one Collins observes, "when he trifled he was punished again; he then declared that the plunder was buried. He went to the spot, but could not find it; he was then taken to the hospital." Another was tortured in the same form; but, adds the judge, "the constancy of the wretched man was astonishing:"|| he was in consequence acquitted! This practice continued for

\* 43 Geo. iii.

† "Not a governor, not a magistrate, that has acted thus, but has exposed himself to prosecutions upon prosecutions, to actions upon actions, from which not even the crown can save him."—*Bentham's Plea for the Constitution*, 1804.

‡ *Wentworth*, p. 389. 1820.

§ *Collins*, vol. ii. p. 214.

|| *Collins*, vol. i. p. 268.



twenty years, and in 1825 a prosecution was instituted against a magistrate for attempting to extract confession by torture.

The tendency of undefined power to run into tyranny, is illustrated by Macquarie himself. He had prohibited the entrance of strangers within the government grounds, and to detect the offenders stationed constables on the spot, who lay in ambush: three men and two servant girls were captured and committed. The next morning, the men each received twenty-five lashes, by the written order of the governor: the women were detained in the cells for forty-eight hours. There was no appeal to law; and the sole actors were the governor and the gaoler. A process so simple was no longer to be tolerated: the public were alarmed.\* The assumption of magisterial powers was not compatible with the office of the governor; but to authorise the flagellation of free men without trial, for a perhaps innocent trespass, was both dangerous and unjust.

This was, perhaps, the last instance of such extravagant despotism, and it exposed Macquarie to much inquietude during his life. That a person so humane in his general character should forget the precautions due in equity and in law, and punish arbitrarily for imaginary offences, proved that no power is safely bestowed, unless its objects and extent are minutely defined.

The civil, called the "Governor's Court," was instituted by George III. in virtue of his prerogative. It consisted of the judge advocate, and two inhabitants chosen by the governor: it was empowered to decide in a summary manner all pleas in relation to property and contracts, and it granted probates of wills.

When convicts contracted pecuniary obligations, the governor specially withdrew them from liability to arrest; and told the creditors that in trusting these debtors their opinion of their honesty must be their sole guarantee: government could not spare "the servants of the public" from their toils to answer the complaints of suitors.†

From its decisions, a cause could be carried to the governor; and in sums exceeding £300, to the king in council.

Though unsanctioned by an act of parliament, this court departed widely from the practice of England. Its au-

\* *Bigge's Jud. Report*, p. 76.

† Collins.

thority was keenly disputed by Bentham ; and Commissioner Bigge, in stating its origin and operation, hints a similar doubt.\*

Undisturbed by objections the crown, by the patents and commissions of 1814, separated the criminal jurisdiction from the civil, and created a supreme court, which adopted the English practice. By the new patent, an appeal was permitted from the supreme court to the "High Court of Appeals," consisting of the governor and the judge advocate; and, except when £3,000 were in issue, his judgment was final!† To both these tribunals the Tasmanians were amenable; but in civil cases the appointment (1814) of a local court under the deputy judge advocate, terminated the absolute dependence on Port Jackson for judicial relief. Plaints for debts not exceeding £50 were entertained by this court, and creditors contrived to bring their claims within its jurisdiction, by dividing the amount into bills of £50. This evasion of the law, although it defeated the intention of a superior court and lessened its business, was useful to both parties; it decreased the difficulty and expenses of suits. It was more equitable in its operation than the supreme court: the owner of a vessel could carry up his own witnesses to Sydney, and at the termination of a trial convey them home without delay; but the less opulent debtor or creditor found himself practically excluded from redress.

Mr. Judge Abbot was, however, not eager to assume his office, and it was not until 1816 that he commenced operations. The accumulation of debts must have been great, for at his first session fourteen hundred complaints were entered: nor did he exhaust the suitors by delay, for eleven hundred were disposed of during that year. Two inhabitants, chosen by the governor sat as assessors; and being known, and knowing all parties, they often discussed in private beforehand the causes awaiting their verdict!‡

The deputy judge advocate held in contempt the net-work of the law, by which equitable rights are sometimes entangled: his was a court of request without appeal, and he took pleasure in asserting its finality. For the convenience of suitors he allowed agents to practice in his court: these gentlemen had somewhat more legal knowledge than the judge, and often exasperated his antipathies by its

\* *Bigge's Jud. Report.*

† *Ibid.*

‡ *Ibid.*



ostentation. They would dwell on the dignity of his court : his decision was irrevocable ; even the lord chancellor of England, they would say, was subject to the revision of a still higher court than his own, but the deputy judge advocate decided the cause for ever. Trusted with such resistless jurisdiction—such onerous responsibility, how great must be his care to avoid an error beyond correction—an injustice that could not be undone but by an act of parliament ! Such were their addresses : occasionally heard with complacency—and, it is said, not always unsuccessful. The most famous of these practitioners were Messrs. R. L. Murray and Evan Henry Thomas. The last gentleman was an emigrant, and issued a rhetorical advertisement for employment as a preceptor ; but renouncing that calling, he provided himself with a blue bag, the sole qualification essential, and paraded the vicinity of the court : here some suitor found him. What he wanted in experience he made up by industry ; and thus carrying his cause, established his reputation as a pleader.

Abbott was a lover of fair play : when one of these gentlemen stated a cause, he expressed a wish that the other side could be placed in as clear a light. Willing to show how well he comprehended the case, the agent for the plaintiff set before the court what the defendant might allege ; and Abbott, admitting its force, determined in his favor ! The equitable judge decided that the plaintiff should pay the defendant the unsought balance of his bill.

On such a primitive plan were minor rights protected. Although the decisions were often grounded on imperfect proof, the substantial equity of Abbott's adjudications was rarely questioned. In cases under £5 the court received no fee, but in higher causes a small sum was paid. The agents obtained what they could, as the recompense of their professional toils.

Major Abbott continued to preside as deputy judge advocate, until his office was abolished. After visiting England he returned to Launceston with the appointment of civil commandant. He died in 1832 : the inhabitants spontaneously honored his funeral. He was esteemed as a person of a generous nature and upright intentions. Major Abbott entered the army at the age of thirteen : he was in the service of the crown fifty-three years, forty-three of which were spent in the colonies.



## SECTION V.

WILLIAM SORELL, Esq., third Lieutenant-governor, landed 8th April, 1817. To restore safety to the colony was the first duty of the governor: on his assumption of office he called the inhabitants together, and enabled by their subscriptions he offered large rewards, and thus inspirited both the soldiers and the constables. In less than three months the greater portion of the bushrangers were destroyed or captured. During Sorell's administration the colony suffered no serious disturbance from outlaws. This display of rigour was followed by judicious precautions: he ascertained more frequently the distribution and employment of the prisoners of the crown, and removed many temptations to disorder and crime.

It was the practice, established first a few months after his arrival, to muster the whole population annually. Notice was sent through the districts, requiring the attendance of the several classes, who accounted for their families and their stock: the name, the residence, and civil condition of every inhabitant became known. Sorell thus ascertained the increase of cultivation and cattle, and whatever indicated progress.

The landing of settlers direct from Great Britain was an important event: their efforts were experiments, and their achievements were prophetic. The political philosopher may trace in their errors, trials, and successes, the lessons afforded by experience for the instruction of nations. The rapid advance of modern colonisation tends to underrate the first efforts of our predecessors. The first colonial boat-builder founded a great commercial navy; the first shepherd held in his slender flock a treasure of unimaginable worth.

The arrival of many emigrants led to the exploration of the country. The hunters were usually the pioneers, but beyond the general features of the scenery, they afforded little information: wild cattle were the better guides. To provide a settlement for strangers, Sorell explored the region lying between the Shannon and the Clyde to its junction with the Derwent; free from timber, and within twenty miles of navigable waters. At this district were located several distinguished settlers.

The narrow grants and wretched homesteads of the emancipist cotters, the sole farmers at the time of this immigration,

presented but little to please. The settler, whose imagination pictured the rustic beauties and quiet order of an English farm, saw unfenced fields of grain, deformed with blackened stumps: a low cottage of the meanest structure,\* surrounded by heaps of wool, bones, and sheepskins; harrows and water carts amidst firewood; mutton and kangaroo strung on the branches of trees; idle and uncleanly men, of different civil condition but of one class; tribes of dogs and natives. No green hedges or flowery meadows, or notes of the thrush or nightingale; but yet there was the park-like lands, the brilliant skies, the pure river; and, above all, the untainted breath of the morning.

In 1820, there were only two estates, those of Mr. E. Lord and Colonel Davey, on which fences were erected; and the destructive incursions of cattle were subjects of many complaints: yet in that year £20,000 had been obtained for wheat exported to Sydney. The first crops were prolific: the early settlers chose the more fertile and open plains; and many selected sites for their dwellings on natural lawns of surpassing beauty.

The dispatch of vessels direct from England rapidly increased the population: in one year (1822) six hundred settlers entered the port, and by the capital which they invested, and the habits of decency and enterprise they exhibited, gave a new tone to the colony. A succession of publications drew attention at home to the capabilities of Van Diemen's Land. It was described in the *Quarterly Review* (May, 1820) by a friendly pen, which stated that during three years, a detachment of one hundred men had not lost three, and that Hobart Town had been sixteen months without a funeral.

The work of Lieutenant Jeffries, who spent several months in a passage from Sydney to Van Diemen's Land, and who wrote much in praise of the native women, and the pleasures of a bush life, drew a pleasing picture. The more sober sketch of Captain Dixon, and the copious delineations of

\* There is nothing new under the sun. The following description of a New England cottage, on the Penka-tang River, in 1704, is given in the journal of Madame Knight:—"It was supported with shores (posts), inclosed with clapboards laid on lengthways, and so much asunder that the light came thro every where; the doore tyed on with a cord in ye place of hinges; the floor the bare earth. No windows but such as the thin covering afforded, nor any furniture but a bedd with a glass bottle hanging at ye head on't. An earthen cupp, a small pewter bason, a bord with sticks to stand on instead of a table, and a block or too in ye corners insted of chairs."



Mr. Wentworth, directed the public curiosity to Tasmania. For several successive years new books were published, describing the fertility of the soil and the beauty of the climate. These generally contained a theory of pastoral increase—a geometrical progression towards wealth. The increase was, indeed, rapid beyond oriental precedent. Between 1810 and 1820, it was estimated at fifty fold.\* The adaptation of these colonies for the growth of wool first drew the attention of several gentlemen of Hamburgh, whose importations afterwards promoted the improvement of our flocks.

The position of Van Diemen's Land favored its settlement. Vessels bound to Port Jackson often touched at the Derwent to discharge portions of their cargo; and weary with the length of the voyage, emigrants listened to the persuasions of the colonists, and the hints of the lieutenant-governor himself.

The advantages offered to settlers, so late as 1818, included not only grants of land, but loans of stock and seed; and a price for wheat, long standing at 10s. per bushel, and for meat 6d. per lb. The settlers were entitled to rations for themselves and their convict servants for six months. It was stipulated that the stock should be replaced by the increase, and the wheat repaid at the harvest. Such engagements were, however, rarely fulfilled. No suits could be prosecuted by the crown in the local court, and vague threats of disfavor were the only means of recovery: these were understood as formalities. The crown, by the prohibition of distillation, prevented a consumption of grain, and until a fixed price was given corn had been sometimes of no value whatever. A partial market was assured, to prevent the total neglect of agriculture. The patronage, of course, led to official corruption: many officers received wheat from their servants in commutation of labor, and some of more than usual inferiority was thus admitted by a Launceston commandant, a refugee Frenchman, who threatened to transport the storekeeper for calling in question its quality. The Commissioner Bigge recommended the bounty should be entirely abolished, distillation permitted, and supplies purchased by tender. A deficiency could be no longer apprehended. There were 7,400 inhabitants, at the close of 1821, who possessed 15,000 cultivated acres, 35,000 horned cattle, 170,000 sheep, 550 horses, and

\* *Wentworth*, vol. ii. p. 93.



5,000 swine. With such resources, the danger of famine finally disappeared.

The herds were composed chiefly of Bengal cattle, imported at an early period; but the emigrants introduced the most valued of the English breeds, which have entirely supplanted the early stock. The herbage and the climate are equally favorable to the increase of cattle.

The interior of the country being quiet, tickets of occupation were granted to settlers, who were enabled to establish large herds and flocks on the lands of the crown. The scarcity of provision in New South Wales soon created a considerable demand for the produce of this country, and in 1820 meat, to the value of £10,000, was purchased by the crown for exportation.\*

Macquarie, when his administration was drawing to a close, came on a tour of inspection to Van Diemen's Land. He arrived in the *Midas*. The squally weather, which prevented his immediate landing, gave time to prepare for his reception. He disembarked on the 24th April, 1821, saluted from the battery, and by the military, who lined the road to the government house. At his former visit in 1810, the population did not exceed 1,500. A few scattered and miserable huts, separated by thoroughfares but half recovered from the forests, then constituted the capital, which had now acquired something of an English aspect: there were 426 houses, and 2,700 souls.

Few scenes are more pleasing than those which, assisted

\* The following is a list of exports from Van Diemen's Land to Sydney in six years:—

*Wheat valued at 10s., and Meat at 6d.*

Year.	Bushels Wheat.	lbs. of Salt Meat.	£
1815	1,770	—	885
1816	13,135	10,000	6,817
1817	15,240	8,000	7,820
1818	7,990	64,640	5,611
1819	24,768	346,800	21,054
1820	47,131	386,000	33,225

*Wentworth*, vol. ii. p. 32.

Lands granted from 1818 to 1821, from 25,000 to 273,000 acres; population, from 3,557 to 7,360; in cultivation, from 5,080 to 15,005 acres.

by memory, display the growth and triumph of industry. The gratification of all parties was visible, and a general illumination closed the day. It was a day of pardons and bounty: when the prisoner received his liberty and the settler his heritage: every inhabitant who had no plaint to prefer, had yet thanks to pay. The *bachelors* of Hobart Town gave a public ball to the governor: one hundred and fifty sat down to supper, and the gentlemen danced together until the morning.

On the 29th June, Macquarie sailed in the *Caroline*: he was accompanied to the water's edge by a large concourse of people, and carried with him applauses which his amiable vanity prized, and which his beneficence deserved.

Macquarie inserted in the *Sydney Gazette* the details of his progress, and observations. Whatever he described, he lauded: the architectural taste of the private buildings; the handsome church; the commodious military barracks; the strong gaol; the well constructed hospital. The enterprise and industry of the people; their spacious harbour; their battery, signal post and pier—are all distinguished with the minuteness of an auctioneer's catalogue, and nearly in its phrases.

During his progress he gave names, among which many remain memorials of his love of country: Staffa Ulra, and Olmaig; Perth, Campbell Town, Oatlands, Strathallen Creek, Roseneath. The townships of Sorell, Brighton and Elizabeth, were designated by him: the last in honor of his wife. His own name is found everywhere.

#### SECTION VI.

THE Australian colonies owe their pastoral wealth originally to Captain John Macarthur, of the 102nd regiment: he was assisted by the enterprise of Captain Waterhouse, of the royal navy, who, though a sailor and confessedly ignorant of pastoral affairs, conveyed to the colony the stock which laid the foundation of its fortunes. The sheep brought by the first fleet to New South Wales, were sacrificed to the necessities of the time: the cattle strayed, and were discovered long after grazing on the Nepean, increased to many hundreds. Several efforts were made by the New South



Wales Corps to introduce a stock, chiefly for the knife ; but the transmission was attended with considerable difficulty, and the greater portion died.

The basis of the New South Wales flocks was the Bengal : these, bearing hair, were mixed with sheep originally from Holland, and imported from the Cape. Mr. Macarthur having obtained some sheep from Ireland,\* remarked the great, though accidental improvement in the fleece, which exhibited a mixture of wool, and gave the first hint of a great possible improvement. He then requested Captain Kent to procure sheep from the merino flocks of Colonel Gordon, at the Cape. These were forwarded by Captain Waterhouse (1797), who delivered to Macarthur three rams and five ewes, and retained a proportion himself.

The results surpassed expectation. The flocks of Bengal yielded to three or four crossings, and produced the finest wool. Thus the heaviest fleece, in 1801, was 3½lbs. : the next season it improved to 5lbs. The ewe produced wool worth 9d., her lamb's wool was valued at 3s. ; and even the merino improved by the exchange of climate : its wool produced at the Cape being worth 4s. 6d., and at New South Wales 6s. The rate of increase was not less encouraging : the produce of fifty ewes, in seven years, was two thousand.

In 1803, Captain Macarthur visited England, and presented a memorial to the lords of the committee of the privy council on the pastoral capabilities of New South Wales. He requested the crown to grant the use of public lands and servants, and offered to supply the commissariat at a given price, and to sustain the entire risk or loss of his experiment. The statement of increase was doubted : the testimony respecting the quality of wool could not be disputed, as Macarthur had procured the certificates of eminent manufacturers. It was, however, asserted that the natural pasture would be unable to subsist flocks, and it was necessary to combat this objection. Macarthur proposed to sell his flock at their value to a company, and on credit ; on condition that the company procured a grant from the crown for pasture. This was declined ; but Lord Camden was requested by their lordships to encourage Macarthur, and he received in consequence permission to occupy the cow pastures, where natural fences prevented the intermixture of his flocks. A grant of 5,000 acres—

\* *Bigge's Report.*



ultimately of an additional 5,000—was made to him. Never was a reward more justly due, or given with less sacrifice.\*

Mr. Macarthur procured from the royal flock at Kew, one ewe and nine rams : † with these he raised his flock to 6,000 (1818), and frequently sold pure merino rams at from £14 to £28 per head.

The merino stock of George III., from which the Australian stocks were partly drawn, was sent to that monarch by the Spanish cortes. The king's love of rural pleasures was thus instrumental in adding immense wealth to his empire.

It was not until 1820, that settlers of Van Diemen's Land entered the career of improvement. The original stock were introduced by Colonel Paterson : a mixture of Teeswater, Leicester, and Bengal breeds. The lieutenant-governor was anxious to improve the quality by an importation of merino lambs. By an engagement with Macarthur, three hundred were shipped at Sydney ; ‡ but more than one-third died : the rest were distributed to the settlers by lot, who gave the engagements to repay at the stipulated sum, and who received facilities for the experiment in suitable tickets of occupation. Macarthur received, at 7s. 6d. per acre, 4,368 acres of land for the 300 lambs, valued to the crown at £5 per head.§ From this date the wool of the Tasmanian flocks became known to commerce.

Van Diemen's Land wool was not an article of export until 1819. Only 71,000 pounds had been sent to London from New South Wales, but some had realised even 7s. 6d. per lb. ; in one instance 10s., it is said, by a friendly competition : a sum three times greater than the English price of the finest continental wool. A specimen had been manufactured for George IV., and which so pleased him that he directed Sir J. Bloomfield to enquire if more could be obtained in England. There seemed now no hesitation in giving credit to Macarthur's prediction, that the boundless pastures of New South Wales would relieve the manufacturers of dependance on Spain.

That great encouragement had not been afforded, and greater progress accomplished, may be considered surprising. The wool of commerce was still inconsiderable ; although the flocks of both colonies amounted to 200,000. Before

\* *Par. Pap.*

† *Bigge's Report.*

§ *Par. Pap.*

† *Bigge's Report.*

the merino was first introduced, the fleece was considered worthless. The operation of shearing was often delayed until the sheep were injured : it was a deduction from the profit. The wool was burned, or thrown into the stock-yards as manure.

In 1819, the captain of the *Regalia* accepted a proportion of Van Diemen's Land wool, in exchange for merchandise : it had no market price, its expenses were considerable, and a duty of 3d. was levied at London. A sample was seen by Mr. Hopkins lying in the docks in the worst possible condition : the speculation was a failure. The colonial government bought several tons a few months after at 3d. per lb. for mattresses, a sum that scarcely paid for its conveyance from the interior. The duty, formerly 3d., was reduced, on the recommendation of the commissioner, to 1d. per lb.

To Mr. Henry Hopkins the public are indebted for the first appreciation of Tasmanian wool. In September, 1821, he offered by advertisement a price in money, and bought at 4d. per lb. Twelve bales sold in London, the entire wool export of the colony, for 7d. per lb., or £88 : the expenses were nearly half that sum. The merchants, however, continued to purchase, and the settlers to improve their flocks. In 1823, five hundred and fifty bales were exported in the *Deveron*, and an equal quantity in other vessels ; and the wool of Clarendon rivalled the flocks at Port Jackson.

#### SECTION VII.

THE *Britannia*, a vessel the property of Messrs. Enderby and Sons, first discovered the whale fishery.\* On doubling the south-west cape of Van Diemen's Land the crew saw sperm whales : in their progress to Port Jackson they fell in with prodigious shoals, as far as could be seen from the mast head. On arriving at Port Jackson the captain secretly informed the governor, who facilitated his preparation for a cruise. The sailors, however, did not conceal their observation, and two other vessels, the *Mary Ann* and *Matilda*, sailed one day before the *Britannia* and the *Salamander*, on

\* *Hunter's Historical Journal.*



the 1st November, 1791. On their departure they encountered bad weather, but saw whales in great plenty. The attempt was, for the moment, unsuccessful. Great expectations were formed by the colonists, who anticipated that this port would be a rendezvous of fishermen. This fishery, pursued since with so much vigour, was of little immediate value to Van Diemen's Land.

The duties payable on exports from the colonies were both excessive and unequal; especially in oil, the difference amounting to almost absolute prohibition; being twenty times greater than by London ships. The settlers could only procure for their own consumption or the Indian market. The whalers often carried on their operations in sight of the towns, and heaps of bone at that period lay on the eastern shore. Of the first whale taken in the Derwent, Jorgen Jorgenson declared himself the captor.

The trading pursuits of the inhabitants were fettered by the privilege of the East India Company. The act of parliament authorising its charter, prohibited the employment of vessels less than 350 tons between England and New South Wales; the small coasting trade was, therefore, solely eligible to the people of these colonies except in vessels unsuitable to the extent of their commerce. Thus, even the Mauritius was closed against the corn and meat of this country. This law was repealed in 1819, and thus vessels of any tonnage could be employed in the colonial trade.

In the islands of the straits sealing was pursued with such vigour, that it was comparatively exhausted at an early date: small vessels were employed in the dangerous navigation, and not unfrequently lost.

Few instances of nautical disaster and personal misfortune have surpassed the case of Captain Howard, in 1819. He was robbed of an iron chest containing money and jewels to a large amount. Next, the *Lachlan*, his property, was stolen by convicts. He freighted the *Daphne* for India, and sailed with two women and a boy, beside the crew. They anchored at Kent's Group, and Howard landed. The brig, some hours after, was observed to drift: the wind blowing hard on the shore, her destruction was inevitable. The long boat was laden, and leaving behind the passengers and some seamen, Howard after great efforts reached the Derwent. Under his direction, the *Governor Sorell* sloop was dispatched to receive the people left on the island. Meanwhile the *John Palmer* entered the group, took off the women and the boy, and a bag of 400 dollars left in their



charge; and was lost with the whole of her cargo. Nor was the *Governor Sorell* more fortunate: the seamen of the *Daphne*, who left the island in a boat, saw on the north-east coast of Cape Barren, the binnacle and other fragments of that vessel, in which Howard perished.

The same fate seemed to attend his property after his death. He had freighted the *Frederick* and the *Wellington* with sheep and cattle for the Isle of France, a market which then offered large gains. After some delay they reached the Northumberland Islands, off which the stock all died, from want of room and the influence of climate. Unwilling to proceed without cargo, the captain detained the vessels for spars. Here the *Frederick* was wrecked, and twenty-two of the crew were drowned; but the chief officer, one woman, and a boy, reached the *Wellington*. They then proceeded to Timor, constrained on the passage to subsist on the preserved hides of the cattle. From Timor they proceeded to Batavia: the captain died, and the crew dispersed; and the vessel was taken under charge by the Orphan Chamber, her register being lost, and her owners unknown!

A calamity still more singular, may be worth record.\* The *Surrey*, Captain Raine, left the Derwent in 1820. Having heard that men were detained at Ducie's Island, he went there in search of them. The men came to the beach, but could scarcely articulate from exhaustion: they had belonged to the *Essex*, a whaler. One day, a whale of the largest class struck the vessel, and broke off part of her false keel: she then went a-head of them a quarter of a mile, and turning back met the vessel with such tremendous velocity that she was driven back at the rate of several knots: the sea rushed in at the cabin windows; every man on deck was knocked down, and the bows were completely stove in. The sailors were obliged to abandon the vessel, and after visiting several islands were found by the *Surrey* as described.

The strong inclination to trade, common to emigrants, was in these colonies a passion, while the settlers were of the lower class. The want of coin induced the government to pay the debts it incurred in rum, which, commonly valued at £1 per bottle, passed from hand to hand. The commissariat receipts were, however, the chief medium of exchange: they were acknowledgements of the delivery of goods for the use of the crown. They were paid by the settlers to the

\* *Methodist Magazine*, 1821.

home. "There was," says Holt, "no clergyman to visit the sick, baptise the infant, or church the women. So we were reduced to the same state as the heathen natives who had none of these ceremonies." At this period, however, many missionaries, driven from Tahiti, took refuge at Port Jackson. Some were employed as preachers, and others as schoolmasters, and several rose to considerable station and wealth, while others resumed their mission under more favorable auspices.

Mr. Marsden succeeded in arousing the attention of the ministry: additional clergymen were procured, and schools were established. The country-born children displayed an aptitude for instruction which kindled the most pleasing hopes. They exhibited a feeling, approaching to contempt, for the vices of the convicts, even when manifested in the persons of their parents.\* "These feelings," said Sidney Smith, "convey to the mother country the first proof that the foundations of a mighty empire are laid."†

It is scarcely possible to imagine a condition more unfavorable to the rising race; and yet the aptitude for instruction, and the self-respect observable in the Australian youth, have been remarked by every visitor from the earliest times, not without astonishment. It is not uncommon to see children of the most elegant form, and with an open countenance, attended by parents of a different aspect, as if a new region restored the physical and mental vigour of the race.

A pleasing instance of the love of knowledge occurred during the early ministry of the Rev. Mr. Cartwright, which he related to Governor Macquarie. The river which separated them from his dwelling was swollen, and knowing the ford was impassable, he saw with great amazement his young pupils approach his Sunday school: they had tied their clothing on their heads, and swam across the stream.‡ It is asserted, that without any other instruction than a casual lesson, some learned both to read and write.

The Rev. Robert Knopwood, who arrived with the first settlers, was long the sole chaplain of Van Diemen's Land. In addition to his clerical functions he regularly sat as a magistrate. He had not much time to care for the spiritual interests of his flock, and of his success in their reformation nothing is recorded: his convivial friends are the chief

\* *Bigge's Report*, p. 104.

† *Works*, vol. ii. p. 44.

‡ *Reid's Voyages*, p. 312.



eulogists of his character. His little white pony was not less celebrated. Mr. Knopwood received a pension, and was subsequently appointed chaplain to a country district: he died in 1838. The gaiety of his disposition made him a pleasant companion and a general favorite; and conciliated whatever esteem may be due to a non-professional reputation.\* Mr. Knopwood was not, however, unwilling to tolerate the assistance of a sect whose zeal wore a different aspect from his own. The wesleyan ministers found a kindly welcome and an open field.

In the absence of clergymen, it was customary for the magistrates to conduct public worship, or where that was not possible, to assemble the prisoners and accompany the inspection with a few words of advice.†

The attention of the London committee of the wesleyan mission was aroused by their agents stationed at Port Jackson, who referred to this colony as "a settlement called the Derwent, two weeks' sail distant." The Rev. B. Carvosso, on his passage to New South Wales, touched at Hobart Town, in the month of May, 1820. He embraced the opportunity thus offered. He was introduced by the Rev. Mr. Knopwood to the governor, who authorised and protected his teaching. Mr. Carvosso stood on the steps of a dwelling-house; his congregation partly within and partly without: his wife conducted the psalmody. The text which initiated the wesleyan ministry was characteristic of its style and results: "Awake thou that sleepest!" The colony required such addresses. Mr. Carvosso's description of the inhabitants may be imagined: they were kindly, but dissolute. At New Norfolk and at Pittwater, with a population of several hundreds, no religious service had been performed. A seriously-minded soldier, by diligent inquiry, found out a

\* He is thus described by a companion, in the *Hermit in Van Diemen's Land*: "The good old gentleman at length warmed with the subject, and said in an under tone—'You must come and see Bob at the cottage. Yeoix, yeoix: tantivy, tantivy;' to which friendly invitation I immediately assented."

† The following is a discourse delivered by Captain Nairn, and by its constant repetition was impressed upon the memory of the relator. Captain Nairn would stand and thus address the prisoners on a Sunday morning:—"Now, my men, listen to me. I want you all to get on. I was once a poor man like you; but I used to work perseveringly, and do things diligently and as such got taken notice of, until I became a captain of the 46th. Now, I want you to work perseveringly; do things diligently, and that will make you comfortable; and I will assist you, that you may have houses for yourselves, and rise up to be equal to me." It may be questioned if many sermons of greater pretensions, have not been less humane and effectual; and this was often the sole substitute for public worship.



settler said to be religious. To converse with this person, he took a journey of fifteen miles, and found him swearing !

Shortly after Mr. Carvosso's departure, several soldiers of the 58th regiment, who at Sydney adopted the sentiments of methodism, were quartered in the island. They prompted a Mr. Noakes to obtain a room for worship : eight persons met on the 29th October, 1820, at a house in Collins-street, Hobart Town. They next removed to the residence of a Mr. Wallis : the soldiers and their coadjutor filled up the hour with singing, exhortation, and alternate prayer. Corporal Waddy appears to have been the leader of the band. They were assailed with great, though transient fury : their devotion was stifled by hostile noises. The governor, however, interfered, and the disturbers were intimidated.

But the landlord of the house growing weary of their company, they sought a place of refuge. Donne, a carpenter, whose skilling formed a workshop, was entreated to arrange it for worship. At first, he gave a hesitating consent : his wife, a woman of vigorous temper and "a Romanist," violently interdicted the project ; " but," says the chronicler, " that night there was a dreadful storm ; the house rocked : she awoke in terror, exclaiming, ' the methodists shall have the room ! ' " The building became too small : it was enlarged to accommodate three hundred persons : a society of fourteen members was constituted. On the 13th May, 1821, a Sunday school was established ; the first in Van Diemen's Land. All this was done in the absence of a minister. Waddy, who was made a sergeant, went to India, where he soon died. He was mentioned with admiration by his brethren. Donne had been a prisoner : he lived to acquire the respect and confidence of his neighbours. His proper name was Cranmer : he was descended from the family of the illustrious archbishop.\* He remained in membership until his decease. Mr. Noakes, the organiser of these wesleyan victories, became dissatisfied with their results : the *Gazette*, of 1823, announced that he had withdrawn from their fellowship. To him, however, belongs the honor of gathering the first school for gratuitous instruction.

In the year following, September 21st, 1821, the Rev. Mr. Horton arrived. His labors were fatiguing and minute : he read the scriptures to " four persons in one place, and addressed twelve in another ; chiefly old people and young children." He describes the social state of the country :

\* These statements are taken from the official papers of the mission.

"The wretchedness of Launceston is past description : " of the deaths at New Norfolk, all except two are attributed to accident or drunkenness."

Mr. David Lord gave Mr. Horton a plot of ground, and he resolved to build. He was indefatigable in his collections; and by contributions, then thought liberal, obtained £400.; but chapels are not built by cautious men. Having raised the walls his money was gone; and they remained long uncovered: a reproach to his calculation, but not to his faith. The Rev. R. Mansfield, two years after, obtained timber and labor from the government: gifts and loans were provided by the society in England, and the building was completed.\*

In 1822, a considerable religious immigration took place. Carvosso transmitted accounts of the material and moral prospects of the colony, which determined several of that class to settle in this island. They embarked in the *Hope*, and encountered great dangers in the British channel. On their complaints the vessel was seized, under an act for the protection of passengers; and the *Heroine* being chartered for the purpose, they were transmitted at the expense of the government. The owners successfully appealed against the seizure, and accused the passengers of conspiracy; who, however, themselves suffered considerable detention and loss.† Many still survive, having largely contributed in their various spheres towards the social improvement of the country.

Mr. Knopwood was superseded, as principal chaplain, by the Rev. William Bedford. This gentleman received his appointment by the recommendation of persons who had been impressed by his zealous attendance on criminals awaiting execution in the metropolitan gaols.

The presbyterian church was founded the same year by the Rev. Archibald Macarthur. He was cordially received as a representative both of his country and his religion: though not himself of the national church, most Scottish names are appended to the first subscription for his stipend.

The co-operation of the various bodies was not prevented

\* The Rev. Mr. Mansfield continued until 1825. Under his care the institutions peculiar to the wesleyans were fully established: their *love feasts*, in which they relate the rise and progress of their religious experience; their *watch nights*, when they wait in silent prayer for the first moment of the new year; their *covenant*, in which standing up together they pledge themselves to the service of the Almighty.

† *Godwin's Guide to Van Diemen's Land.*



by their differences. Of the first annual meeting of the wesleyan mission, Mr. Bedford was president, and the whole community joined in the support of a bible society, the first religious institution of the colony.

The missionaries who fled from Tahiti a second time, formed at Sydney a bible society, under the patronage of Macquarie, and transmitted a considerable supply to the care of Mr. Knopwood. In return for the liberal gift, an auxiliary was formed, of which Messrs. Birch and Dry were the lay officers. The meeting held in May, 1819, contributed £100 on the spot: £300 during the year. This munificence was avowedly for the credit of the settlement. Not only did the institution unite all sects, but it was the first instance of friendly co-operation between the emigrant and emancipist classes.\* Among the contributors were twelve who, giving 5s. each, designated themselves the "members of the free and accepted masons of St. John's Lodge, Hobart Town." An early general meeting of the society was an example of dispatch: the governor took the chair, the report was read, the resolutions passed, and the meeting dispersed within ten minutes. With such celerity were pious labors finished in those days.

The erection of the archdeaconry in favour of the Rev. W. Scott, in 1824, was the result of his visit to the colonies, as secretary to Commissioner Bigge, whose reports were attributed to his pen. His alleged hostility to the emancipists excited resentment, and detracted from his usefulness. When delivering his charge at Hobart Town, the governor required the attendance of all officially connected with the government, whatever their faith. New South Wales was within the diocese of Calcutta, but the relation was nominal; yet the newspapers did not think a visit from Bishop Wilson improbable.

The Rev. John Youl, formerly a missionary at Tahiti, was the chaplain of Port Dalrymple. His labors were divided between George Town and Launceston, and until his arrival no clergyman had ever visited the northern districts of the island.† In 1819, he made a tour, and baptised sixty-seven children, and married forty-one couple; many of whom were recognised as such before his interposition.‡ He was accustomed to call his congregation together by the sound of an

\* *Bigge's Report.*

† *Ibid.*

‡ *Gazette*, February, 1819.



iron barrel, which was swung to a post, and struck by a mallet ; or he announced his arrival by walking through the settlement in his canonical dress.

Launceston was destitute of a clerical resident until 1824, when Mr. Youl returned with the establishment from George Town. The people were sometimes weeks without a service, and three years without a clergyman. Shortly after, during a visit of the governor, the church was crowded ; an event said to be unparalleled in the history of Launceston. The church was a wooden building of small dimensions : sometimes occupied as a court, sometimes as a temporary sleeping place for prisoners ; sometimes as a stable.\*

The disposition of Mr. Youl was amiable, and his professional reputation unblemished : placed in a station of little promise, he cultivated the minds and affections of the young, and discountenanced vices he could not extirpate.

The first Roman catholic priest established at Hobart Town, was the Rev. Peter Connolly. Less polished than his protestant friend, Mr. Knopwood, he was not less genial in his temper : the pastor of a people drawn chiefly from the Irish peasantry, he well understood their character. He received a grant from the crown, and erected a humble chapel and dwelling-house ; which he ascribed partly to the charity, and partly the penance of his flock. He used a common brush to sprinkle them with holy water, and spoke of their faults without much softness or reserve. Occasionally an execution required his services at Launceston, otherwise a place long overlooked by the priesthood.†

The return of the Sabbath was unattended in the country with a religious welcome. Many employed their time in hunting : the more scrupulous in visits, and the profane in labor or intemperance. A gentleman, now distinguished among the wesleyans, was found by his neighbour ploughing by the road side on Sunday morning : both himself and his men had forgotten the day. Yet at the houses of all, a minister of religion, of any name, met a cheerful entertainment and a willing audience. Whether that the presence of an intelligent stranger is itself a grateful interruption to rural solitude, or that the miseries resulting from sin were too apparent for dispute, the utility of religion was never

\* Eye-witness.

† Mr. Fitzgerald, a respectable settler, speared by the natives (1831), was carried to his grave by his neighbours ; but was indebted to a prisoner, sought out for the purpose, for the religious rites usual at funerals.

openly questioned ; and it is certain, that few people were less inclined to reject the instructions, or to affront the ministers of religion.

#### SECTION IX.

ON the 19th July, 1823, the British legislature enacted a law for the "better administration of justice in New South Wales and Van Diemen's Land, and for the better government thereof;" to expire at the close of the session of parliament, 1827. The old courts with their military functionaries were superseded,\* and a supreme court erected; whose jurisdiction extended to causes, criminal, civil, and ecclesiastical. The judges were entitled to the powers and jurisdiction enjoyed by the courts of King's Bench, Common Pleas, and Exchequer of England; and to enquire into and determine all treasons or other crimes committed within the Indian or Pacific Oceans. The military jury of seven officers on full pay, were retained; but the court proceeded according to the forms of civil tribunals. The trial of civil issues was confided to the judge, and two justices of the peace chosen by the governor; the right being given to either party to apply to the court for a jury of twelve freeholders. The king was authorised to extend trial by jury at pleasure. Causes of more than £500, or a less sum with consent of the judge, were subject to appeal to the governor of New South Wales; and appeals in certain cases were allowed to the king in council. The rules of court were authorised by the king. Courts of quarter session, and of request for sums under £10, were established. The governor, with the advice of a council of five or seven, or the major part of them, was empowered to enact ordinances not repugnant to the laws of England. The duties levied under former acts were made perpetual, but the council were inhibited from imposing a tax, except for local purposes. The governor, with one member assenting, could pass any law: or, for the

\* Mr. Samuel Bate, after exercising the functions of judge at Port Phillip (1803), returned home, and received the appointment, many years after, of inspector of excise, at Port Jackson.



suppression of a rebellion, although all might dissent : and the king was empowered to enact an ordinance which the council might reject.

It was provided also, that the king might erect Van Diemen's Land into a separate colony : confer on the acting-governor, in the absence of the governor-in-chief, the various powers conveyed by the act ; and, in that case, terminate the dependance of the supreme court on the court of New South Wales. On these extensive powers the checks provided were the requisite preliminary certificate of the chief justice, that the ordinances proposed were consistent with the laws of England, or the circumstances of the colony ; the exposure of these acts on the table of the House of Commons ; the obligation of the governor to show cause for the act passed in defiance of his council ; the prohibition of direct taxation, except for local purposes : guarantees of little value at the time of their adoption, but rendered of greater importance by the growth of freedom in the empire at large.

The act of parliament did not pass without animadversion and discontent. Sir James Mackintosh moved that a jury of twelve should be substituted for the clause constituting a military jury—the most obnoxious portion of the bill. In this he was seconded by Mr. Wilberforce, but the proposition was defeated by a majority of eleven. Mr. Canning recommended a compromise between the friends and opponents of the bill, by limiting its duration to five years, and to this the minister assented.

The capacity of the colonies to furnish jurors was long a subject of debate. Mr. Justice Bent stated, that after full consideration he recommended a grand and a common jury, in conformity to the English law, and the trial of convicts by the police ;\* but Commissioner Bigge pronounced against the scheme, and was confirmed in his opinion by the leading colonists of the time. The whole state of society opposed serious objections to its adoption, and it was scarcely practicable in Van Diemen's Land.

The settlers were generally desirous that Van Diemen's Land should be erected into a separate colony. To this, Sorell was opposed. He thought the measure premature : tending to augment the expenses of government ; to deprive the people of the advantages of an appeal to the elder colony, and of participation in that more liberal system of

\* *Par. Pap.* 1812.



government a larger community could demand. A public meeting was, however, summoned, and a petition adopted by acclamation. The sole dissentient present, Mr. Murray, was roughly treated by the petitioners.

The nearer inspection of a chief authority, and the more ample means possessed for good, were its advantages; but it occasioned a more rigid separation in social life, multiplied offices which might have been long confined to the elder colony, and removed too far the governor and courts from effectual oversight and appeal. The colony was not sufficiently consolidated to oppose a force of public opinion to the despotic tendencies of the new constitution.

This petition was forwarded to the king through Mr. Edward Barnard, the colonial agent, who owed his appointment to the suggestion of Mr. Bigge, and the nomination of Lord Bathurst. His office was not, however, political. He was authorised to purchase stores for the local government; to give drafts on the colonial funds in exchange for cash; and otherwise to assist persons designing to emigrate to this country. He received 8 per cent. commission, and a salary until 1839, when it was withdrawn. He bore no resemblance to those bold political agents, such as Franklin, sent by the American colonists to watch their interests in Great Britain,

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In the early journals the name of Sorell occurs frequently, to illustrate the qualities which adorn a ruler, and to point a satire on his successor. On his departure a banquet was given him, where, said the reporter, "the cup was often replenished, and the flow of reason never ebbed." It was observed, that the return freight for merino wool, which the colony owed to his care and foresight, anchored beside the *Guildford*, that was to carry him home.

Towards the close of Sorell's government, the commerce of the colony was assisted by the enterprise of some British merchants. A company was formed at Leith, with a capital of £100,000, professing to promote the welfare of the colonies, by taking their produce in exchange for merchandise. A succession of vessels were dispatched: the first was the *Greenock*; among the rest, the *Triton*, Captain Crear. These vessels introduced many families from Scotland, whose moral worth and successful enterprise have established their

families among the chief of the land. The shipments provoked the anger, and broke up the monopoly of the local merchants.

The administration of Sorell was successful in colonial estimation: his habits were familiar without rudeness, and his fine countenance attracted the confidence of the stranger. He was accustomed to linger about the gate of government house, chatting with the passers by, and a slight excuse entitled the humblest ranks to prefer their solicitations. The admiration expressed by the settlers for his character, was partly the result of their relative positions. He was a dispenser of crown favors, and when compelled to refuse an immoderate suitor, he could refer his request to the governor-in-chief. The rigour of king's commissioner was softened by his official worth: nor is it necessary to search for a censure, amidst such concurrence of praise. The settlers, to express their regard, agreed to offer Sorell a testimonial of £750 value. They deprecated his recall by petition\*—a rare instance of popular favor: there was but

\* The following may be considered almost unparalleled in the history of modern colonies, and in this has never been repeated. The government of Sorell was rather patriarchal than despotic; and compared with the mass of newly arrived emigrants he was the old inhabitant. Many who had never seen official men, but at an awful distance, were charmed with the affability and kindness of the governor, and his recall seemed the withdrawal of a liberal patron:—

"AT A PUBLIC MEETING of the Landholders, Merchants, and Free Inhabitants of Van Diemen's Land, by public advertisement assembled, at the Court House, in Hobart Town, the 30th day of October, 1823, JOHN BEAMONT, Esq., Provost Marshal of Van Diemen's Land, in the chair;

"Resolved—(Moved by Edward Abbott, Esq. junior, seconded by James Gordon, Esq.)—That in the present state of this colony, that union of wisdom and experience, which his Honor Lieutenant Governor Sorell has on every occasion so strikingly exhibited, is most essential to our general and individual interests. It becomes therefore of the very utmost importance to us, that in any contemplated changes, as to this colony, Lieutenant Governor Sorell may not be removed from his present government; inasmuch as no successor, whom it may be the pleasure of his Majesty to appoint, can be possibly expected to bestow all that general and individual attention to our wants and wishes, and to be able, satisfactorily and advantageously, to encounter any difficulties which may occur, without a considerable lapse of time, and much probable increased inconvenience; while from the steady, calm, decided, and experienced judgment of his Honor Lieutenant Governor Sorell, we have every reason to hope for the most prosperous continuation of his present successful administration.

"2d. Resolved—(Moved by A. F. Kemp, Esq., seconded by F. Dawes, Esq.)—That a most dutiful Address be presented to his Majesty, grounded upon the preceding resolution; and that a committee of fifteen gentlemen be appointed to prepare the same, and to carry into effect the object of the present meeting, in such manner as shall appear most proper and expedient.

"3d. Resolved—(Moved by T. G. Gregson, Esq., seconded by W. A. Bethune, Esq.)—That the Address, when signed, be forwarded with the least



one dissentient. A request so unusual might, perhaps, have been successful, had it not come too late.

On his return to England, he received a pension, which commencing in 1825, continued until his death—twenty-four years, and amounted to £11,500: more than the official salary he received during his government twice told. This pension was authorised by the crown, and charged on the colonial revenue. Sorell was colonel of the 48th regiment: he died on the 4th June, 1848, in the seventy-fourth year of his age.

The aspect of the country at this time was not inviting

possible delay to Edward Barnard, Esq., our colonial agent in London, requesting that gentleman to adopt the necessary measures for forthwith submitting it to his Majesty's most gracious consideration, and to use his utmost endeavours to obtain the object of the same.

"4th. Resolved—(Moved by R. L. Murray, Esq., seconded by J. Gordon, Esq.)—That a subscription be forthwith entered into, to defray the expenses which may arise from carrying into effect the present resolutions, and for the purpose of presenting to his Honor Lieutenant Governor Sorell a Piece of Plate, in token of our affectionate remembrance of the great obligations we owe him, and that such subscription be limited to the sum of two dollars, individually.

"5th. Resolved—(Moved by A. F. Kemp, Esq., seconded by J. Archer, Esq.)—That H. J. Emmett, Esq. and P. A. Mulgrave, Esq. be requested to undertake the offices of treasurers of the subscription, for the counties of Buckingham and Cornwall, respectively.

"6th. Resolved—(Moved by T. G. Gregson, Esq., seconded by T. Anstey, Esq.)—That a copy of these Resolutions, and of the Address to his Majesty, be transmitted to his Honor Lieutenant Governor Sorell, in such manner as by the Committee shall be considered most respectful to the Lieutenant Governor, and suitable to the occasion.

"7th. Resolved—(Moved by R. Espie, Esq., seconded by J. Gordon, Esq.)—That the following fifteen gentlemen do form the committee for the purposes before resolved:—

E. Abbott, Esq. jun.  
T. Anstey, Esq.  
J. Archer, Esq.  
W. A. Bethune, Esq.  
F. Dawes, Esq.  
H. J. Emmett, Esq.  
J. Gordon, Esq.  
T. G. Gregson, Esq.

S. Hood, Esq.  
A. W. H. Humphrey, Esq.  
A. F. Kemp, Esq.  
R. L. Murray, Esq.  
H. Ross, Esq.  
G. F. Read, Esq.  
J. Scott, Esq.

"8th. Resolved—(Moved by J. Archer, Esq., seconded by T. Anstey, Esq.)—That these Resolutions, and a copy of the Address to his Majesty, be inserted three times in the *Hobart Town* and *Sydney Gazettes*; and in the *Times*, *New Times*, *Morning Chronicle*, and *Courier*, London newspapers.

"JOHN BEAMONT, *Provost Marshal, Chairman.*

"The Provost Marshal having quitted the chair, and James Gordon, Esq. having been requested to take the same;

"Resolved—(Moved by E. Abbott, Esq., junior, seconded by R. L. Murray, Esq.)—That the thanks of this meeting be given to John Beamont, Esq., our worthy Provost Marshal, for the readiness with which he has convened the present meeting, and for his able, upright, and impartial conduct in the chair.

"JAMES GORDON, *Chairman.*"



to strangers ; but the current of colonisation was set in, and its ultimate superiority, compared with all others, became an article of Tasmanian faith. On this subject the agricultural societies maintained a war of papers. Baron Field, the chief justice of New South Wales, was the champion of that country, and dwelt on its vast forests, its wool, its boundless pastures and rivers. The president of the Tasmanian agriculturists urged all in the defence of Van Diemen's Land, which became his position. At that time, protective laws had not furnished them with more formidable weapons.

The trials and disappointments of the colonist pioneer, will have been long since forgotten. The modern emigrant to Australia can know them only in part. He is carried to his destination by a public conveyance, at a cost determined by extensive competition. He can have the mechanical labor he may need : he can buy the stock, descended from European flocks and herds, lower than in their native regions. The choice fruit trees, flowers, and plants, which multitudes have combined to collect, he can obtain often at a gift. The costly experiments of his predecessors have established the rules which preserve his crops from destruction, or his folds from disease. There is a market for his produce, and a bank for his money ; and a school for his children.

A poet, of some celebrity, predicted the fortunes of Tasmania. The picture he drew, is no unpleasing prospect for posterity :—

“ Now, on my soul the rising vision warms,  
But mingled in a thousand lovely forms !  
Methinks I see Australian landscapes still,  
But softer beauty sits on every hill :  
I see bright meadows, decked in livelier green,  
The yellow corn-field, and the blossomed bean :  
A hundred flocks o'er smiling pastures roam,  
And hark ! the music of the harvest home !  
Methinks I hear the hammer's busy sound,  
The cheerful hum of human voices round ;  
The laughter and the song that lightens toil,  
Sung in the language of my native isle !  
The vision leads me on by many a stream ;  
And spreading cities crowd upon my dream,  
Where turrets darkly frown, and lofty spires  
Point to the stars and sparkle in their fires !  
Here Sydney gazes, from the mountain side,  
Narcissus-like upon the glassy tide !  
O'er rising towns Notasian commerce reigns,  
And temples crowd Tasmania's lovely plains !  
The prospect varies in an endless range ;  
Villas and lawns go by, in ceaseless change :

And wafted on the gale from many a dell,  
Methinks I hear the village Sabbath bell !  
Faith upward mounts, upon devotion's wings,  
And, like the lark, at heaven's pure portal sings ;  
From myriad tongues the song of praise is poured,  
And o'er them floats ' the spirit of the Lord !' " \*

\* *Australia; with other Poems.* By T. K. Hervey, London, 1824.

# HISTORY OF TASMANIA.



FROM 1824 TO 1836.





## FROM 1824 TO 1836.

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### SECTION I.

GEORGE ARTHUR, ESQ., fourth Lieutenant-governor of Van Diemen's Land, arrived in the *Adrian*, on the 12th May, 1824. Formerly superintendent of Honduras, he was extensively known as an officer of inflexible and energetic disposition : his administration had occasioned considerable debate, and was the subject of parliamentary and judicial enquiries. Honduras, an establishment on the American coast, was occupied by adventurers from Jamaica. At first interlopers, their presence was for a time unnoticed by the Spanish crown. A hundred years were passed in unavailing protests and opposition, when the court of Spain reluctantly recognised the location of the cutters of logwood within its undoubted territory.

In 1814, Arthur was appointed superintendent by the Duke of Manchester ; at the same time he received from General Fuller the government of the troops in the following words : " I do hereby constitute and appoint you, the said George Arthur, to command such of his Majesty's subjects as are now armed, or may hereafter arm for the defence of the settlers at the Bay of Honduras ; you are, therefore, as commandant, to take upon you the care and charge accordingly." In virtue of these appointments he claimed both the military and civil command, until he quitted the settlement in 1822.

In 1820, Bradley, an officer stationed at Honduras, was promoted to the rank of lieutenant-colonel on full pay, and knowing that the regiment of which Arthur was colonel (the York Chasseurs) was disbanded, he considered himself entitled to the military command, by the seniority of rank, according to the rules of military service : he refused to acknowledge longer the authority of Arthur, or to attend a

council of officers to which he was summoned. Arthur instantly caused Bradley to be arrested, and his sword taken from him; and he was detained a prisoner for seventy-three days.

An account of this transaction was transmitted to Jamaica, when General Fuller, the superior officer, ordered the colonel's liberation; but forwarded to the authorities in Great Britain a statement of the dispute. The conduct of Colonel Bradley was deemed inconsistent with military subordination: he was dismissed from the service without trial; he was, however, allowed to dispose of his commission.

Colonel Bradley instituted an action against Arthur for false imprisonment: his counsel was the present Lord Brougham: Arthur was defended by the law officers of the crown. There were two questions to decide: whether the arrest was legal, and then whether unnecessary hardship had been endured by the plaintiff. The jury, considering that Bradley's detention was unnecessarily prolonged, gave him damages to the amount of £100. The appointment of Arthur to the government of this country withdrew him from the effect of a legal process, and when Bradley appealed against what he deemed the injustice of his evasion, he was told that he could await his recall. Colonel Bradley next published a statement, that General Fuller had antedated Arthur's commission as commandant, thus to justify the measures he had taken: a charge amounting to forgery. A criminal information was filed against Bradley: he was found guilty, but was not brought up for judgment.

It was decided by the judges that Bradley was mistaken, and that Arthur's title to command was regular and valid. Bradley, however, continued to maintain that he was the victim of a deep conspiracy, by which Arthur was rescued from the consequences of usurpation. It is certain that Bradley was ruined.

The judges, in pronouncing a decision on Bradley's appeal against the verdict of justification which Arthur obtained, in reference to the arrest, set aside the rules and regulations of the service. Their judgment was built merely upon the absolute discretion of the crown in the distribution of military command: they inferred that the approval of Arthur's proceedings and the dismissal of Bradley, were sufficient evidence of the royal will.\*

\* *Barnwell and Cresswell's Reports.*



This was not the only charge exhibited against Arthur. In Honduras, slavery existed in its foulest forms.\*

Colonel Arthur obtained the countenance of an important class of politicians, by the compassion he expressed for the negro race, and his exposure of the connivance of magistrates at the cruelty of masters. He minutely described the sufferings of several women of color in his despatches to the secretary of state; and especially denounced that atrocious bench, which admitted a plea of ownership in justification of the crime of maiming. The details given by Arthur fully justify his interference, and the enmity of a people by whom they were tolerated inflicted no disgrace. Thus a mistress, whose careless severity injured the eye and severed the ear of a negro woman, pleaded the rights of property, and the magistrate admitted the defence, although the character of the sufferer was unimpeached. In flogging, the owners often stripped off the lower clothing of the female slaves, threw them on the ground, and fastened their limbs to stakes.†

Wilberforce and Stephen, the great advocates of slave liberation, who possessed influence with the executive, considered Arthur a valuable coadjutor in their glorious cause, and were supposed to pardon the arbitrary spirit of his government for the sake of his philanthropy. This evangelical alliance was a standing subject of reference and criticism.

It may be proper to notice the moral state of this colony on Arthur's assumption of office. The meeting which adopted a farewell address to Sorell, authorised a similar compliment to Arthur on his accession. It was couched in the language of cold respect: parting reluctantly with their late governor, the people were less disposed to welcome his successor. The reply of Arthur was not less formal and cold: he took occasion to express his conviction that the moral example of the free population was essential to the improvement of a class less favored; and that while employing his authority for the general welfare, he was resolved to maintain the rights of the crown. Such sentiments and purposes were just; but scarcely likely at that moment to be heard with

\* An obscure publication appeared at Jamaica in 1824, designated a *Defence of the Settlers of Honduras*: a work intended to refute the imputations on which his anti-slavery policy had been justified. Whether the book itself really existed, or the passages professedly extracted from it deserve any credit, is questionable: the authority being an opposition paper.

† Colonel Arthur's letter to Lord Bathurst, 1820.

pleasure. The good sense of Sorell discountenanced the excesses of vice, but the moral standard of England he had not attempted to raise. The domestic circumstances of Arthur were more favorable to his authority as a censor; and happily for our ultimate welfare, he resolved to discourage violations of social decorum. Many settlers, whose rank in life made them unwilling to contract lawful marriages with prisoners or their offspring, were surrounded by a numerous race. Their example affected those in stations beneath them. To arrest this domestic evil, was doubtless the duty of Arthur; but it was not always performed with consideration. Many were unable to marry; but were unwilling to abandon connexions sanctioned by the circumstances of the colony and the habits around. They were placed under a ban: the favours of government were denied them. Such as were in subordinate offices were dismissed; and however lasting the utility of this rigour, its immediate consequence was irritation, resistance, and contempt.

The state of the prisoner population, though considerably ameliorated by Sorell, was far from satisfactory. Left much at their own disposal from the hours of labor till their return, they were masters of that portion of their time most suitable for dissipation and crime. The extent of their depredations, and the deliberation with which they were performed, indicated an extensive confederacy. The subordinate police, prone to connive with offenders, was ill-regulated and insufficient. Goods were carried off in masses: bags of sugar and chests of tea were abstracted from the stores; cart loads of property were swept off at once. The habits of the populace were daring, profane, and intemperate; and to coerce such materials into order, required the utmost vigour and discretion.\*

The chief justice, John Lewes Pedder, Esq., brought from Great Britain the charter of the supreme court, which was proclaimed in the market-place on the 7th May, 1824. On the 24th of the same month, the court opened for business, and Joseph Tice Gellibrand presented his commission as attorney-general. In his opening speech he declared his resolution to adopt the maxims of the illustrious Hale. He eulogised the jurisprudence of his country, and especially trial by jury; but the military uniform which appeared in

\* The disorders of this period will be found described in vol. ii, of this History.



court, if it did not lesson its utility, deprived the institution of its grace.

The first person tried was named Tibbs, for killing a negro, who while watching for thieves was himself taken for a robber. Though not a constable, he found pleasure in detecting the crimes of others, and had in some instances succeeded. He fell a victim to this singular passion : he was haunting the premises of a settler, by whose servant he was slain.

The first prosecution for libel was at the instance of Mr. R. L. Murray. This gentleman, formerly a captain in the army, had been transported for bigamy. At an early age, while stationed in Ireland, he became acquainted with a presbyterian lady, and was married to her according to the rites of her faith. Considering himself trepanned, he came to the conclusion that the ceremony was void, and subsequently espoused another. Twenty years after, he was prosecuted; but not at the instance of the parties more immediately concerned. In an appeal to the British nation, published at the time, he ascribed the charge to malice; and he made several unsuccessful efforts to obtain the reversal of the sentence. In the opinion of eminent counsel, the ceremony was invalid; and many years after, the judges decided that the marriage of a presbyterian and an episcopalian in Ireland, could only be celebrated by a clergyman of the establishment. Sir Samuel Romilly and Mr. Whitbread called the attention of the Commons to the extreme severity of the sentence, and were resisted by the ministers with party warmth.\*

Murray was educated at Westminster and Cambridge; and had spent twenty years in the service when his commission, as captain in the Royal Waggon Train, was declared forfeited. After residing some time in New South Wales, he settled in this island : his extensive experience and literary talents procured his admission to the limited society. Having adopted the opinion that an independent colonial government would not add to the freedom or prosperity of the colony, he opposed the petition. The committee for its promotion set up a placard, which referred to the history of the dissentient, and exposed themselves to a criminal prosecution.

The establishment of a court seemed to be the signal for an outbreak of disorder and violence. Many prisoners

\* *Appeal to the British Nation.* By R. L. Murray, Esq. : London, 2nd edit.  
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escaped from confinement, and for a long period a succession of depredators alarmed and pillaged the colony. The settlers promptly tendered their assistance to the government, to garrison the towns or scour the bush. Their assistance was chiefly valuable for the moral support it afforded, and its influence on the minds of the labourer in bondage. The exploits of the bushrangers properly belong to the history of transportation, and are related in Vol. ii. p. 194. The terrors they spread retarded the occupation of the country, and joined with the assaults of the natives made the life of a Tasmanian farmer one of considerable danger. At this time the remote estates were guarded by soldiers: loop-holes pierced the walls; fierce dogs were stationed as sentinels; and the whole strength of a district was sometimes employed in pursuit. Few settlers have escaped assault and loss. Many families, who in Great Britain thought of an armed robber only with feelings of terror, by long familiarity with scenes of danger, acquired a cool courage, which would not dishonor a soldier by profession. The unsparing sacrifice of the robbers captured, gradually terminated the practice of bushranging, and the colony enjoyed a long season of comparative repose.

The duties, levied first by the authority of the governor-in-chief, and afterwards sanctioned by parliament, were collected by the Naval officer, who received 5 per cent. on the amount: he also performed the duties of treasurer. Dr. Bromley, the surgeon of the first fleet, subsequently made seven voyages to the colonies, when he obtained the appointment. The infrequent examination of the accounts, exposed the treasury to undetected pilfering, and the colony to loss: in 1824, a large defalcation was discovered, which, ascertained by a jury of merchants, amounted to £8,269. They recommended the defaulter to the lenient consideration of the government, as the victim of others. Dr. Bromley had been subject to the daily peculation of servants, and robbed of cash and plate, to the value of £500, at once. His integrity was not impeached: the public business, however, had been conducted without check. The per centage was abolished, and the offices of treasurer and collector separated, and confided to Mr. Jocelyn Thomas and Mr. Hamilton.

The admission of goods liable to customs had been lax. The new settler landed his rum duty free, when intended for his own use; but smuggling was carried on to a large extent, and the protection of the revenue required a

more severe supervision. The rigour was not always exercised with courtesy ; and the vallis of Mr. Edward Lord, formerly acting-governor, was detained by the naval officer, with some expressions of indignity.

The merchants were deeply offended by the imposition of a duty at Hobart Town, higher than was fixed by Brisbane at Port Jackson, as injurious to their trade ; and that duties levied prior to landing, were sometimes imposed on wines never actually delivered. They requested that the charges might be equalised with the other port, and that the excess already taken should be restored. In reply, Arthur not only refused to entertain the petition, but vindicated with great ardour the conduct of Hamilton, as a traduced and excellent public officer. Such was the answer to the merchants who complained of excessive and unequal imposts. Dissatisfied with the reply, they required the sheriff to call a public meeting, to address the governor-in-chief, the colony being still a dependency. This the sheriff, Mr. Dudley Fereday, declined, complaining that his honor Colonel Arthur was not mentioned in the requisition, and the object of the meeting not sufficiently defined. A meeting was therefore called to reprobate the ignorance and presumption of the sheriff ; but the dispute ended without any other practical consequences than a wide impression that the government was despotic and contemptuous.

A more important variation between the colonies was displayed on the question of trial by jury. The magistrates of New South Wales were required to shew cause for the non-issue of a precept to the sheriff, to summon a jury. The rule *nisi* was made absolute. Chief Justice Forbes decided that the magistrates derived their commission from the king, and not the parliament ; that their functions and obligations were settled by common law ; were not mentioned, and therefore not taken away by the act. The petty session thus traced its existence to the royal commission : the supreme court to the parliamentary law.

When the report of the determination by Judge Forbes reached this colony, Mr., now Sir Alfred Stephen, brought the question before the court in a similar manner. He argued that it was the duty of the court to construe the act of parliament in a form the most favorable to the subject. On the other side it was maintained, that the colony was too small to furnish civil juries, and the parliament had superseded them. The act itself which instituted the military jury for the supreme court, and gave civil juries in



civil cases, left the extension of the practice to the royal discretion alone.

Judge Pedder, in giving judgment, stated that according to the practice previously in the colonies no civil juries had been known, and the act of parliament which conferred trial by jury did not give a common one, but retained the military jury. On the whole he was of opinion that parliament had overruled common law, and taken away trial by jury, except as provided by the act, or extended by the king.

Thus, while Judge Pedder ruled that the petty juries were illegal at New South Wales, they were sitting under the sanction of the then superior authority. That the decision of our supreme court was a more correct interpretation of the intentions of parliament, is scarcely to be doubted; but the words of the act did not necessarily extinguish a common law right, and the intention of legislators is not law. The decision of Forbes was more agreeable to Englishmen, though scarcely compatible with the condition of the country.

The treatment of Mr. Gellibrand, the attorney-general, who was dismissed from his office by Arthur, for unprofessional conduct, excited great interest in the legal circles of Great Britain. The disagreement sprang chiefly from a trial, *Laurie v. Griffiths*, characteristic of the times. The plaintiff sued for damages for the illegal capture of a vessel of 12 tons, of which he was the owner and master. The vessel, called the *Fame*, was found by the brig *Glory* in Twofold Bay. Griffiths, the owner of the *Glory*, invited Laurie on board, and made him prisoner. He then boarded the *Fame*, deprived her of charts and compass, and amidst the shouts of his seamen fastened her to the tail of the *Glory*. In this condition she was carried triumphantly towards Launceston; but a storm arising, the *Glory* encumbered by the *Fame*, cast her adrift, when she was exposed to great danger. The prize-master ran her on shore, and the party wrecked, after fourteen days journey through the woods, reached George Town. The justification pleaded was that the plaintiff had conveyed prisoners from Port Jackson, and was liable to forfeiture; that he had embarked in an unlawful voyage, and intended to visit Launceston to circulate forged paper. No proof of these assertions was offered, and the jury granted £460 damages; a verdict which the government found no occasion to disturb.

Mr. Gellibrand, upon the close of the action, was called



to account for mal-practice. Mr. Dawes, an attorney, presented a statement to the governor, which was forwarded to Judge Pedder, who returned it as not within his province. Mr. Alfred Stephen, therefore, brought the complaint formally before the court, and moved that Gellibrand should be struck off the rolls. The main question was this: whether a barrister holding a general retainer could, without license, advise the opposite party, or whether he could draw pleas for both. It was maintained by Mr. Stephen, that the practice was dishonorable and dangerous: in the early stages of a cause facts might become known to a barrister, which would make him a formidable antagonist to his former client. He asserted that whether the practice were common in England or not, it was detestable; and if allowed, would compel him to relinquish the profession, "or seek an honorable pittance elsewhere."

In the case of *Laurie v. Griffiths*, Mr. Gellibrand had drawn the pleas for the plaintiff, and afterwards acted officially against him; he, however, transferred the fee he received to Mr. Stephen, when he was compelled to relinquish the cause. The profession, almost unanimously, asserted that the custom of the English bar warranted the practice of Gellibrand. The judge stated that he was not concluded by the custom of the English bar, and that the court might treat as a contempt a practice tolerated at Westminster: he considered the custom pernicious, but dismissed the case, and left the governor to act for himself.

The appeal of Mr. Gellibrand to the profession perfectly vindicated his conduct. It was found that the first counsel in England often acted against a retaining client, and sometimes drew pleas on both sides. Thus, in a question of a right of way, the same counsel drew the declaration, the plea, and the replication. However objectionable at first sight, where legal technicalities are so fatal to even a right cause, it would be no small hardship were an opulent person permitted to engross the legal talents of an island, and exclude his antagonist from the possibility of obtaining justice. The excitement occasioned by this dispute was of long continuance, and motives were freely imputed.

Although the chief justice dismissed the motion of Mr. Stephen, the governor determined to press the charge, and appointed a commission of enquiry. Additional matter was urged: it was said that Gellibrand advised a client to enter an action against a magistrate, whom his office might oblige him to defend, and that his intimacy with Mr. Murray

did not become his relations with the government. Mr. Sergeant, now Judge, Talfourd regretted that by quitting the commissioners appointed by the governor, he had damaged his case. The crown had a right to dismiss; but he was clearly of opinion that the proceeding of the local officers was the effect of either "malice or mistake." The charges of professional malversation he pronounced too absurd for notice; that the practice was not only allowable but often imperative.

Mr. Stephen, on his passage to this colony was involved in a quarrel, which ended in an assault. On his action he obtained £50 damages. His bill of costs, twice that amount, was published, to contrast with the professional scruples which inspired his opposition to Gellibrand. This bill consisted of one hundred and twelve items, among which the following: "to instructions for replication," "for brief," "retaining fee." Many other such payments of self to self, passed the taxing of the master. After paying actual expenses, Mr. Stephen, however, handed the surplus to a charity.

The master of the supreme court arrived in October, 1824. This gentleman was the brother of the late William Hone, a party writer of great celebrity, whose opinions in early life were extreme, both in reference to politics and religion. For publishing parodies, which employed the language of the *Common Prayer* as a vehicle of political complaint, he was tried by Lord Ellenborough. His fame was greatly increased by the pertinacity and skill of a successful defence. He afterwards wrote the *Day Book*, a work of ability and research; and in the last years of his life he embraced the faith, and died with the reputation of an ardent christian. Joseph Hone, Esq. succeeded Mr. Gellibrand. The uniform gentleness of his character has been respected by the press: he is mentioned only to be praised.

The arrival of General Darling was a time of festivity: he proclaimed the independence of the colony on New South Wales, December 3, 1825. While present, he was entitled to govern; but when he set sail, Arthur, who had been addressed as "Your Honor," assumed the authority of governor-in-chief, and, responsible only to the home-office, became "His Excellency." The colonists were less delighted with the possession than the prospect of a chief governor; although the spirit of General Darling was not more favorable to the enlargement of their liberties.

The legislative and executive councils were appointed,



consisting of officers of the government : among them, it is said, a relative of Spencer Perceval, the statesman. He had been nominated to an office in this colony, but he never arrived ; his name is, however, second on our first list of legislators.

The division of the island into police districts, subject to a stipendiary magistrate (1827), brought the prisoner population under the more direct control of the government. It was a great improvement in the internal discipline of the colony. Gentlemen, themselves masters, were liable to the bias of a position full of vexation and disappointment, and less favorable to a cool and impartial administration of justice. The executive revised their sentences, and thus reflected on their judgment. Nor were they willing always to spare the time required by a patient investigation, or to distinguish between a frivolous and a proper defence. Some curious examples of magisterial equity are often told : one rose from the bench, when he heard his waggon in the street, and delivered his sentence in his progress towards the door—"I can't stop : give him fifty." A cattle stealer owed his life to the same impatience of enquiry : before the charge was half investigated, the magistrate said, "give him fifty"—an easy compromise with the hangman. A reverend gentleman met a party of men brought up for disobedience : he sent them back, with "ah, well, give them five-and-twenty all round." It was common to send a note with the man whom it was intended to punish : he was flogged, and sent back. A man, suspecting the contents of such a missive, gave it to his fellow-servant, who was flogged in spite of his protests. Another, who had been on a similar errand before, returned next day to his master, complaining bitterly of his suffering ; but he had destroyed the note and eluded the triangles. Such eccentricities of justice could not last beyond the rudest era.

The site of the capital narrowly escaped a second change. The commissioner, Mr. Bigge, considered that the seat of government should be fixed nearer to the source of the river Derwent. Brighton was nominated the destined city, close to an extensive and fertile country, and within easy access to the interior. Arthur was instructed to determine this question. Its chief inducement was the removal of the prisoners from the temptation of the port ; but property was already invested to a large amount. The merchants strongly opposed the transfer. The division of the government from the chief population would have destroyed its



moral influence. Arthur did not press the project, and during a conference with the merchants and other principal inhabitants, discussed the question with courtesy. On the whole, the measure was impolitic, and finally abandoned.

The uncertainty for some time obstructed the progress of the place. Launceston was still more unfortunate. When York Town was abandoned as the chief settlement, Paterson removed his head-quarters to Launceston; but on the visit of Macquarie he determined to constitute George Town the northern capital. The superior convenience of a spot at the head of the river to one forty miles distant, gave Launceston the mercantile preference. Macquarie maintained his project to the last; but the opinion of Mr. Bigge determined the dispute in favor of Launceston, and the head-quarters, in 1824, were removed finally from George Town.

A fatality has seemed to attend the selection of chief townships in the colonies. Sydney is a second choice, Hobart Town a second, Launceston a third, Melbourne a second. New Zealand has experienced the same vexation and losses which proper surveys might easily avoid. The general government can have no sinister interest in these changes, but those who foresee and promote them may largely gain.

The principal objection to Launceston was the navigation of the river, which was dreaded by vessels of tonnage; but its reputation was worse than its dangers. Lighters, and even rafts, were employed to discharge ships which would now approach the wharves. The *Aguilar*, Captain Watson, spent several months at George Town, and charged the detention on the river. This was resented by Arthur, who stated that the master had dispatched the mate and seamen on a sealing voyage, and loitered for the purpose of traffic; and sought to excuse the delay by defaming the port.\*

## SECTION II.

THE newspapers of this hemisphere were long mere vehicles of government intelligence, or expressions of the views and feelings of the ruling powers. A censorship established from

\* *Gazette*, November, 1824.

the first issue, was rigorously exercised, and the founder of the Australian press spoke of its vexations to the end of his life, with horror and tears.

This was George Howe, a creole of St. Christopher. He arrived in New South Wales in 1800: with the sanction of Governor King, he obtained material from Great Britain, and sent forth the first-born of the Australian press, named the *Sydney Gazette, and New South Wales Advertiser*, on the 5th March, 1803. The conduct of a periodical was a work of toil and anxiety: the default of material, the paucity of local intelligence, the vices of the prisoner workmen, and the jealousy of the authorities, severely tried the industry and patience of the intrepid printer. He continued his toil until his death, having kindled the unextinguishable torch of a free press, and taken his rank with the benefactors of mankind.

Sir Thomas Brisbane at first relaxed, and then removed restrictions from the press. In 1823, he permitted the discussion of colonial affairs, and in the month of October, 1824, the colonial secretary informed Mr. Howe that he ceased to be amenable, except to the courts of law.

Malice or humour, in the early days, expressed itself in what were called *pipes*—a ditty, either taught by repetition or circulated on scraps of paper: the offences of official men were thus hitched into rhyme. These *pipes* were a substitute for the newspaper, and the fear of satire checked the haughtiness of power.

The *Hobart Town Gazette*,\* established by Andrew Bent, the first permanent newspaper, was under the immediate patronage and control of the government, and Mr. Emmett was the first official editor. The articles were brief, mild, and complimentary: they represented the views of the ruler; perhaps, at that time, also of the people.

On the arrival of Colonel Arthur, Mr. Bent determined to throw off official supervision, and claimed a property in the title of the *Gazette*. The partnership between him and the government was not very distinct. Money had been lent for the purchase of material, but this he was expected to repay. His right to the property, questioned by Arthur, was allowed on reference to the governor-in-chief. The editor

\* "We are indebted to the Italians for the idea of newspaper. The title of their *gazettas* was, perhaps, derived from *gazzera*, a magpie or chattering; or, more probably, from a fathing coin peculiar to the city of Venice, called *gazetta*, which was the common price of newspapers."—*D'Israeli's Curiosities of Literature*, p. 53.



"Gibeonite libel" presented an apology in the following supplicating terms:—"We avow our readiness to preserve inviolate the best and most endeared interests of this community; and we trust that, before misanthropy again can rally his vituperative legions to assault us, we may re-evinced to *all* how staunch is our allegiance, and how sullyless our zeal at the post of probity!" The unfortunate printer could not soften his prosecutor, and was cast in damages and expenses amounting to £500.

In 1829, Launceston was favored with two newspapers: the *Advertiser*, and the *Cornwall Press*. Both started together, and both manifesting the spirit of rivals. The *Advertiser* was the property of Mr. John Fawkner. Its opponent belonged to Mr. S. Dowsett, and reached the nineteenth number. The following are memorials of their fraternal sympathies. The *Cornwall Press* describes his rival as "an addle-pated upstart—a superannuated Zany." His writings "as the frothings of a beer cask." "Condescending to notice 5 feet 2½," he remarks, "we dropped from our proper elevation." What that might be, it is not difficult to conjecture, if the rejoinder is to be credited:—"if he had his right place, he would be wearing a leather apron and scouring pewter pots." Such were the literary love tokens of those days. It will be seen, that the quarrel of Arthur with the press, was continued to the end of his administration.

### SECTION III.

CAPTAIN DIXON, commander of the *Shelton*, came to Van Diemen's Land in 1820. On his return to England, he published a small volume on the capabilities of the country. He suggested the formation of a pastoral company, with a capital divided into £100 shares, as a profitable scheme. Causes foreign to this enquiry reduced the marketable value of money, and awakened a speculative spirit in Great Britain: projects of every kind found favour—a madness fraught with insolvency, fraud, and ruin. But in the meantime the Van Diemen's Land Company had been formed. Men of opulence and prudence, when compared with common projectors, were concerned in its origin. They proceeded



with caution, and postponed the issue of their share list until their plans were laid. Nor did they promise a dividend, but as the result of a considerable outlay, and at a distant date. Yet they drew a brilliant picture of this colony, and delineated in vivid language the riches of its soil, its relative position, and its future destinies. "Such advantages," said they, "could not long escape the penetration of the British public." It was, among their objects, to relieve Great Britain from dependence on foreign wool; to improve the quality of the Australian flocks: this object they have contributed to accomplish.

They applied to Lord Bathurst for 500,000 acres of land. By his countenance they obtained an act of parliament, under which the charter of their incorporation, on the 9th November, 1825, passed the great seal. By this charter they were authorised to employ their capital in cultivation and sheep farming; to lend money on mortgage and to persons engaged in fisheries; to undertake public works on security of tolls: but they were debarred from banking and commerce.

Lord Bathurst consulted Colonel Sorell: he was favorable to the company; but forwarned them that no large blocks of fertile land remained unlocated. The company received a grant of 250,000 acres, to be taken on the north-west coast in one square block; bounded by Bass's Strait on the north; on the westward by the ocean; and by a line drawn from shore to shore. After some debate, this land was valued to the company at two shillings and sixpence per acre, and the whole quit-rent charged, was "four hundred and sixty-eight pounds, sixteen shillings:" redeemable at twenty years purchase—£9,575. In the measurement, one-fourth allowed for useless land. The employment of convicts entitled the company to remission of quit-rent; £16 annually each man.

Mr. Edward Curr, at first the secretary of the company, became their agent. Having some time resided in Van Diemen's Land, he had returned to England, where he published a book on the state of the country, remarkable for its clear narrative and sober delineation. The first ship dispatched by the company was the *Tramere* (1826), followed by the *Caroline*. Some time was lost in selecting the settlement, and Circular Head was chosen. On a closer inspection, the district was not found encouraging. Near the shore the country is heavily timbered, and the high lands towards the westward were found barren and cold. Mr. Curr was

anxious to bring his line as far possible towards the sun ; but the governor held him to the literal agreement, under an impression that the grant was already improvident and excessive. The whole scheme was distasteful to Arthur : a powerful company having interests of its own, whose headquarters were in London, might have been a counterpoise to his influence, had it not been pushed to the extremity of an inaccessible country. By the oversight or complaisance of Lord Bathurst, the rule which made the outlay of capital the condition of a grant, was not inserted in the covenant. The public works promised by the proprietors were never undertaken, and their establishment was but a larger farm than common. They ultimately obtained several blocks of land, which gave them command of an intervening country of 150,000 acres, at Woolnorth; 20,000 at Circular Head, 10,000 at the Hampshire Hills, 10,000 at the Middlesex Plains, 150,000 at the Surrey Hills, and 10,000 at the islands on the coast. The total actual cost, including survey, was 1s. 6d. per acre.

The operations of the company were conducted on a liberal scale : artizans were sent out. The proprietors were promised a remission of £16 for men, and £20 for women, on the quit-rent. This was the first encouragement of free emigration to this quarter of the world. A road was opened with Launceston, chiefly useful to absconders. The importation of sheep and horses of great value, was beneficial to the country. The sheep of the company cost £30,000 (1830), when they exported wool to the value of £2,000. The servants of the company left them on the expiration of their engagements : many before. The reports of the proprietors eulogised the management of Mr. Curr, and affirmed that the moral influence he had acquired rendered his government easy and his people contented. They asserted that ardent spirits were excluded : there were no police or prison, and none required. These statements varied from fact. The company provided no religious teaching for its people ; and Mr. Curr, a Roman catholic, could not be expected to promote heretical creeds.

The losses sustained by the company were great : the cold destroyed the stock, and their crops often perished from moisture. On the Hampshire Hills many hundred lambs died in a night. Sometimes the season never afforded a chance to use the sickle : in the morning the crop was laden with hoar frost, at noon it was drenched with the thaw, and in the evening covered with dews ; and thus rotted on the



ground. The agent, however, did not despair, and the company anticipated a dividend in 1834, at the latest !

The company provided a numerous staff ; beside the agent, were a commissioner, an agriculturist, an architect, and surveyors. Its local affairs were confided to a council of three, Curr being the chairman ; but the divided sovereignty was impracticable, and the " Potentate of the North," as he was sometimes called, soon reigned alone.

Servants engaged in Great Britain at low wages, on their arrival often escaped from the farms, and exposed the agent to great vexation. Sometimes they were pursued, and brought back by force : it was at last agreed to cancel their indentures, on repayment of the cost of their passage. In 1834, the population on the estate amounted to about 400 persons, of whom more than 200 were prisoners of the crown.

The New South Wales and Van Diemen's Land Establishment, formed at the same time, received a grant of 40,000 acres. They engaged to improve the stock of Van Diemen's Land, and introduced valuable horses. Colonel Latour was a leading partner ; Captain Thomas, speared by the blacks in 1831, was superintendent of the company's affairs, which however were unprofitable for many years.

To these establishments the colony is indebted chiefly for the introduction of valuable stock. In this they were rivalled by private settlers. Bulls, of the Fifeshire breed, were imported by Mr. Patrick Wood ; of Normandy, by Captain Watson. Saxon sheep were imported by Messrs. Gilles ; from the flock of the Marquis of Londonderry, by Mr. R. Harrison ; by Mr. Anstey, from the flock of Sir Thomas Seabright ; by Mr. R. Willis, from that of Mr. Henty, of Arundel. Many others might be mentioned, but these were in advance of the public companies ; and by 1830, little could be added to the varieties of the fold or the stall.

Among those employed in the Van Diemen's Land Company's service was Jorgen Jorgenson, whose adventurous life made him remarkable even among vagabonds. He was born at Copenhagen, 1780. After some employment in the coal trade, he accompanied the expedition of Flinders ; and afterwards, as mate on board the *Lady Nelson*, attended the first party to Risdon. Having returned to Europe, and become commander of a privateer in the service of his country, he was captured after a smart resistance by the British ships *Sappho* and *Clio*.

He obtained, while out on his parole, the merchant ship



*Margaret and Anne*, to carry provisions to Iceland, where the people were suffering extreme privation. On a second voyage the governor, Count Tramp, prohibited the intercourse: Jorgenson landed while the people were at church, and aided by his seamen took the governor prisoner. He then, with extraordinary impudence, issued a proclamation stating that he had been called by an oppressed people to assume the reins of government. He proceeded to reform its various departments: he lightened the taxes, augmented the pay of the clergy, improved the system of education, established trial by jury, formed an army consisting of eight soldiers, and fortified the harbour with six guns. Having performed these exploits, he returned to London in a prize taken from the island. His proceedings were already known to the ministry, and he was arrested as an alien at large. Jorgenson made no small stir by his appearance among legislators and conquerors. After a variety of adventures, in which he was often on the borders of crime, he pawned the linen taken from his lodging, and was sentenced to transportation. In Newgate he was employed as a dispenser of medicine. After four years detention he was released; but was retaken, having neglected to quit Great Britain, and transported for life. Such is the account he gave of his imprisonment. The penalty might have been commuted; but he undertook to write on various subjects, and created some trouble; he was therefore forwarded to this colony. Here he was chiefly employed as a constable; detected many crimes, and brought several to the scaffold. A woman, who had assisted him in discovering certain offenders, became his wife; and he was often seen fleeing from her fury through the streets. He, however, survived her, and at length closed his singular career in the colonial hospital.

Jorgenson made great pretensions to literature. He wrote a treatise on religion, and another on the treaty of Tilsit: in this country he published a pamphlet on the funded system, and a narrative of his life by himself. With a knowledge of the writer, it is amusing to read the grave strictures of the London critics, who complained that he bounded with amazing rapidity from one subject to another, without leaving a trace of his track: now among the stars—then on a steam engine chasing infidelity—or pelting atheism with meteoric stones.\*

\* Of the fitness of Jorgenson to discuss theological questions, the reader may judge from the following passage taken from his preface:—"No religion on

## SECTION IV.

THE retirement of Lord Bathurst, and accession of Lord Goderich, gave some hope of a change in the form, if not the agents of government. The colonist expected much from the improved tone of the English executive; but, except the rescue of the press, the sole effect was a reduction of British expenditure for the civil government, and in 1827 its total cessation.

Mr. Hood, a surgeon on half-pay, had offended Arthur by a letter: a *Gazette* announcement informed him that he was placed under a ban;\* and his name recorded, to prevent his participating in the "favors or indulgencies of the local government"—a help to official remembrance, which rulers seldom require. Thus official and opposition parties were organised: as the distinction became more marked, a social gloom overspread the capital. Whispers were heard with jealousy. The mercantile class, who alone could defy the government, and who were excluded from the "court circles," headed the opposition. "The official corps," said a satirical lady, who drew a picture of the times, "are punctilious; fearful of compromising their rank; all *etiquette*." The entertainments at government-house were ceremonies, rather than parties of pleasure. As the servant opened the door, he seemed to say, "you may come in, but don't speak." Some more daring spirit would venture a remark, as ballast is thrown out to send a balloon above the fogs; but caution, like Sancho's physician, interdicted the perilous indulgence, and restored the watchful silence. No Dutchman would willingly endure the Humdrumstadt on the Derwent, notwithstanding its natural advantages and commercial promise—a town without a library, and where the common spirit of detraction was exasperated by competition for those favors the governor could refuse or

earth, except the Christian, establishes the link of the chain which must necessarily exist between the creator and intelligent creature. After consulting history, chronology, the laws of mechanism and the laws of nature, as unfolded by observation and experience, he discovered that events must have happened nearly at the time mentioned, and precisely after the manner described. At length his mind was satisfied, that God had made our yoke easy and our burden light."—*Religion of Christ the Religion of Nature*. Written in the condemned cells of Newgate, by Jorgen Jorgenson, late governor of Iceland. Capes, London, 1827.

\* April, 1826.



transfer. The presence of power was everywhere felt, and dreaded wherever it could not be defied.\*

The close connection and constant intercourse between New South Wales and Van Diemen's Land affected the spirit of both governments. Sir Thomas Brisbane, whose easy temper and courteous manner rendered him highly popular, was superseded by Lieutenant-General Sir Ralph Darling, whose administration after the first few months was a perpetual storm. The chief justice, inclined to liberal politics, rejected several drafts of laws which trespassed on the limits of the constitutional act, which he himself had framed at the request of Lord Bathurst. At his dictation, the ordinance against the press was less stringent than intended. The titles of land, the property of masters in assigned labor, he determined against the government. He was considered the tribune of the people. Judge Forbes, a Bermudian by birth, was educated in an American college, and charged with republican tendencies by those who designed to degrade him.†

Brisbane was the patron of the turf club. This office was accepted by Darling as his successor. He was invited to dine with the members: this he declined. Mr. Wentworth, as chairman of the day, made certain observations thought personally disrespectful; and when the governor's health was proposed, the band struck up, without orders from the stewards, "*There is na luck about the house.*" Darling, informed of these proceedings, withdrew his name as patron. The club passed resolutions declaring their approval of Mr. Wentworth's speech. The governor dismissed the acting attorney general (Moore), the sheriff (Mackarness), and other officials, for their concurrence with the majority.

Two soldiers, Thompson and Sudds, to escape from the service, committed a theft, and received a sentence in the supreme court. To aggravate its rigour, Darling brought them on parade: stripped them of their uniform, fixed round their necks collars set with spikes, and loaded their legs with chains. In a few days Sudds languished and died: this result, so unexpected, was attributed in part to a latent disease of the liver, rendered fatal by grief and the pressure of the iron. The affair became the subject of parliamentary inquiry. Darling was accused of murder by his enemies: he was vindicated by ministers; but although his motives

\* *Letter from a Lady* (Mrs. Adey), inserted in the *Morning Herald*, 1827.

† *Mudie's Felony of New South Wales*, p. 52.



were uncorrupt, an arbitrary aggravation of a judicial sentence who would seriously approve?

These transactions, together with the "Stamp Act" to check the circulation of newspapers, were noticed in the *Australian* (May, 1827) in terms of ironical praise; severe, but not beyond the ordinary license of public discussion. On the arrival of Mr. Baxter, the attorney general, the proprietor, Dr. Wardell, was prosecuted in the supreme court, at the instance of General Darling. Judge Forbes pointed out the violent straining of the inuendos, and through his charge led on to an acquittal. Although chosen by the prosecutor, the jury were unable to agree, and the defendant was discharged. The alleged libel stated that the stamp act "would immortalise" General Darling "in the annals of this rapidly improving colony, and act as a passport to the admiration and grateful respect of posterity." The meaning extracted by the inuendos was this: "It would render his memory for ever infamous, and cause his name to be hated and detested by future generations." The judge justly remarked, that between immortality and infamy there are many steps.

The struggles between the governor-in-chief and the opposition were watched in Van Diemen's Land with interest. The same parties existed in both colonies; but Judge Pedder did not participate the political sympathies of Judge Forbes, and made no pretence to popular applause. To those who check the abuses of irresponsible power something is due; but when the balance of human infirmity is struck, it will not be always found in their favor.\*

The employment of spies has been charged on Arthur as a chief vice of his government—a practice hardly less perilous to the innocent than guilty. Shortly before his retirement from office, Mr. Humphrey, the police magistrate, was denounced for corruption. Major Honner, who had formed a disgraceful connexion with Anne Pope, a prisoner of the crown, applied for her assignment to his service: this Mr. Humphrey refused. The major then offered to produce evidence against this officer, on condition that free pardons were granted to his witnesses, one of whom was found to be his paramour. The governor declined to pledge a reward; but Honner was assured by a member of the executive that, provided the results were satisfactory, his recommendation would be favorably considered. He for-

\* Dr. Wardell was murdered some years after by bushrangers.

warded a letter to the governor, who satisfied that the imputation was malicious and incapable of proof, directed the prosecution of the accuser. The transaction was unfortunate : the negociation indicated that secret informers were tolerated, and that pardons might be procured by a successful witness.

Mr. Humphrey, originally a mineralogist, who filled various offices from the foundation of the colony, received a pension of £400 ; but soon after died (1829). The governor eulogised in strong language his official career.

The recall of Arthur was announced, and the policy of his successor gravely debated before his career was midway. " It is a fact," said the *Sydney Gazette*, " Colonel Davies is the distinguished individual." " The successor of Colonel Arthur," said the *Australian* (1829), " is placed beyond doubt. The appointment of Colonel Gibbs is now certain." Clergymen of such names emigrated about the time, and rumour could easily supply the rest.

When the constitutional act approached its term, the colonists determined to seek not only for trial by jury, but a voice in the legislature. A petition adopted by a meeting held in 1827, was confided to a deputation, who were instructed to forward it through Arthur, and to entreat his concurrence with its prayer. A time was fixed to receive them ; but when at the government-house, they were met by a blundering message, postponing the interview for one hour. Deeming themselves and their constituents slighted, they declined a second attendance. Arthur published a vindication of himself : he stated that business of great importance with Mr. Curr, prevented his examination of the documents ; he had requested the delay only to prepare himself for the audience, and regretted that the colony were deprived of his friendly offices by an unreasonable caprice. This paper fell into the hands of the deputation a few hours after the vessel had sailed with despatches for the secretary of state. They considered this a manœuvre, contrived to stifle their defence ; and instantly dispatched a fast sailing boat to pursue the ship with an exculpatory letter.

By a circular of Lord Bathurst,\* still in force, it was announced to the colonists that their complaints must pass through the governor's hands to the home-office. Duplicates without new matter might be forwarded by other channels ;

\* May 20th, 1826.



but an answer could only be expected on the arrival of the the governor's report.

The violation of this rule the deputation imputed to the necessity of the case; to counteract an attempt of the governor to evade its spirit. Their promptitude was un-availing: for his share in the transaction, the name of Mr. Gellibrand was expunged from the list of magistrates, by Lord Goderich's orders.

The hostility of Arthur to the petition was well understood, and there were many others who did not sympathise with its object. Sir John Owen presented it to the Commons without a word. The ministers expressed their desire to grant free institutions, so soon as the colony was ripe to enjoy them, when Mr. A. Baring (Lord Ashburton) remarked that colonies are never ripe for free institutions until they get them.

Mr. Marshall, the shipping agent, attempted to form an association in London (1828), for the protection of these colonies. All persons, commercially or otherwise interested, were eligible for membership. A correspondence was projected with the leading colonists, and it was assumed the British government would readily attend to representations emanating from such a source. The scheme did not obtain the support it merited, and the scattered colonial interests could never be combined for a joint action. The partizans of Arthur ridiculed the plan, and it came to nothing.

The constitutional act, which became law, July 25, 1828, to terminate 1836, but extended until now, differs in many of its provisions from the last. The governor is president, and has a deliberative and casting vote. The council is increased from five or seven to ten or fifteen; the oath of secrecy is abolished; drafts of acts are *gazetted*; a law cannot be made by the crown or the governor alone; two-thirds of the council must be present; although previous duties are confirmed, no new tax can be imposed except for local purposes expressed in the bill; ordinances must be conformable to English laws; all statutes in operation at the date of the act were applied to the colony, all others may be adopted. A member may draft a bill, which the governor must lay, *verbatim*, on the council table, with his reasons for refusing to propose it. A member may record his protest, and a majority is necessary to pass a measure. The members are appointed by the crown, and vacancies are filled up by the governor: they must be resident; *ex-officio* they are magistrates. The preliminary certificate of the chief justice,



required by the former act, is substituted by another clause, which compels the council to reconsider a bill declared by the judge repugnant to the laws of England, or the act constituting the council.

The British legislature, in criminal cases, establishes a military jury alone: challenge is allowed for direct interests, and magistrates may act in default of commissioned officers; but in civil actions assessors are continued. But the local council is authorised to institute trial by jury, under such limitations as may be deemed meet. It is under this act of parliament that the colony has seen the jury-box delivered up to civilians; but awaits the hour which the law itself foretells, when in recognising the ancient principle of representation it records the purpose of resuming it, "so soon as the cause shall cease to operate which had forbidden its immediate observance."\*

In transmitting this bill, Sir George Murray explained that by the clause which superseded the veto of the chief justice, it was intended to avoid a collision of opinion between the high functionaries of government. Nothing, however, but the most urgent necessity would justify the governor in setting aside his opinion.†

#### SECTION V.

UNDER the former act, the attorney general could refuse to file a bill, and exercised this discretion in a case of libel. The new law authorised the court to permit an information to be exhibited by any person, and the attorney general was bound to indict, except in felony or capital prosecutions. Mr. Jennings, a solicitor, claimed the interference of the court against the attorney general, Mr. Montagu. Savery, who was transported for forgery, was sued for a debt; but Mr. Montagu, who had been a passenger with the debtor's wife, and felt interested in his welfare, stayed proceedings by verbal guarantee. When Jennings attempted to enforce the agreement, Montagu replied that he was more to be affected by the sun than the wind; and added, "I know

\* *Report of the Lords of the Council*, May, 1849.

† Despatch, 1828.

how to defend myself against a person ten times more able or wicked than yourself." The judge decided that the attorney general was not bound to sign a bill of indictment against, or to prosecute himself.

The indemnity due on a returned bill of exchange was decided by the court (1826), on a friendly suit, *Cartwright v. Mulgrave*, at the expense of the merchants. It was deemed proper to give a high compensation, both to solace for disappointment, and discourage a careless issue of bills. The plaintiff paid £112 currency for £100 sterling, calculating that £120 currency would be required in London for the £100 sterling. The assessors fixed 25 per cent. to cover all losses, and the sum has been allowed by the supreme court on all similar cases to this day.

Captain Dillon, of the *Research*, East India Company's ship, the discoverer of the relics of La Perouse, visited Hobart Town. He was prosecuted for assault and false imprisonment by Dr. Tytler, a gentleman commissioned by the Asiatic Society to conduct the scientific enquiries the voyage might favor. He was seized, confined to his cabin, threatened with the lash, and guarded by New Zealand savages, among whom were two, called by Dillon Prince Brian Boru, and his Excellency Morgan M'Murrah, who espoused the quarrel of the captain, and offered to grill and eat the unfortunate physician. The jealousy and violence of Dillon strongly indicated insanity, and Dr. Tytler represented his fears to the second in command. This opinion became known to the captain, and led to the assault and imprisonment, from which the doctor was released by a writ of *habeas corpus*. The chief justice, in pronouncing judgment, explained the absolute power and stringent responsibility of a captain in the management of his company, and sentenced Dillon to fine and imprisonment: the latter was remitted, in consideration of his enterprise.

The public treasury was robbed of £1,400 (1827). The thieves entered at night, while the sentinel was on guard, and the rifled chest was found hidden under a tomb in the adjacent burial ground. Three persons, and the sentinel, were tried for the offence; but on the second day, the crown prosecutor was not in his place. This truant lawyer was enjoying a breakfast, while the court and prisoners were watching the door of entrance. The patience of the judge gave way, and he directed a verdict of "not guilty" to be entered. The crown relieved the treasurer from his responsibility for the loss.



The case of Isaac (Ikey) Solomon, a noted receiver, occasioned a long discussion of great colonial interest. This man having been committed for trial, escaped from Newgate; but his wife, implicated in the same transaction, was transported. A short time after, he appeared in Van Diemen's Land, under the name of Sloman, and applied for his wife as an assigned servant: to this the governor consented, but transmitted to England an account of his presence. Towards the close of 1829, a letter, enclosing an affidavit of Mr. Wontner, the governor of Newgate, was addressed by the secretary of state to the governor, directing the arrest of the fugitive. A consultation was held at the secretary's office, to which Mr. Gellibrand was invited, who declared that the instruments forwarded were insufficient. A warrant, however, was issued for Solomon's capture, and he was lodged in gaol. On the application of Mr. Gellibrand, the supreme court granted a writ of *habeas corpus*, and the question arose whether a colonial secretary had power to act under instructions from the secretary of state, and without examination transmit a person, on a presumption of guilt, over half the globe. The judge admitted that the boasted liberty of the subject would be a delusion, were such powers vested in the local authorities. After a lengthened research and repeated hearing, he was unable to find a precedent, or to solve the difficulty of a case so new.

Mr. Montagu, the attorney-general, maintained that the writ had been improperly granted; that on the face of the warrant there was no illegality. The chief justice, however, was dissatisfied, and desired proof that the secretary of state could grant a warrant without sworn testimony in cases of felony, and that Mr. Burnett, the colonial secretary, possessed the same powers. Mr. Montagu, who had recently suffered ill health, refused to argue the question; and to the complaint of the bench replied with asperity. The chief justice still urged that he had received no assistance on the part of the crown. Montagu rejoined, that speaking not as attorney general, but as an advocate, he repelled such assertions. "I will not," said he, "allow your honor, or any man in Chistendom, to dare to make such observations without repelling them." The caution of the chief justice was extremely gratifying to the colony. The arrest went to the foundation of personal freedom, and assumed a power capable of great error and perversion.

In this case there was no danger of mistake; and the governor, having no doubt of the prisoner's guilt, deter-



mined he should not escape : Mr. Capon, the chief constable, cut the knot by putting Solomon on board a vessel, and conveying him to England. The adventure was barely successful ; Solomon was acquitted on the greater part of the indictments. The legal claim of parties to the plunder found on his premises could not be established, except by his conviction.

On a trial of Salmon and Browne, for a murder at Macquarie Harbour (1829), a military jury exhibited that institution in no pleasing form. They disagreed on their verdict. Lieutenant Matheson conceiving that the facts did not sustain the indictment, declined to convict. His co-jurors were unanimous ; and after three days and nights resistance he submitted. On the Saturday evening the men were sentenced, and executed on the Monday following. Their confession left no doubt of their guilt : they had committed murder that they might escape from misery ; but they asserted that the principal was Browne, and the accessory Salmon—the reverse of the indictment. During their long consultation the jurors were allowed refreshment ; but on the Friday evening several resolved to elope : at a late hour they broke past the astonished constables, and returned to their homes. They were, however, recalled by the sheriff, and kept under stricter watch until the trial ended.

Amusements of the turf, officially patronised in other countries, were discouraged in this. From an early date, occasional matches were made for large stakes ; but in 1827, races were regularly established at Ross. The course was lined off, a stand erected, in which about fifty well dressed persons were spectators. The riders were equipped in different colored clothing, and as they darted along, obscured at intervals by foliage, the scene was picturesque and animated. A race was contested by Messrs. Gregson and Hardwicke, which the latter lost. A public dinner followed ; but the waiter was blindfolded, and his pudding stolen as he entered the tent. The hats and coats disappeared ; and one cavalier was robbed of his boots. " These things," said the reporter, " are fraught with discomfort, and disgraceful in themselves : " an opinion which time has not shaken.

Arthur probably had no great taste for such pleasures ; but he ascribed his unwillingness to support them, to their tendency to excite the prisoner population, and seduce them into disobedience and crime. No regulations or punishments could hinder their haunting the tents, or deter them from intemperance and consequent miseries.

Happily dissention disappeared in the presence of distress. Arthur's name is on the list of subscription for the family of Captain Laughton, who having lost his property by shipwreck and fraud, was drowned on the coast. Governor Arthur gave twenty guineas, and thus fixed the high scale of colonial benevolence, which no vicissitude of public affairs has abated.

The largest private subscriber was Captain Carne, of the *Cumberland*; not less unfortunate than Laughton. When no tidings were heard of the vessel, it was supposed she had foundered; but in the year 1828, Captain Duthie, of the *Bengal Merchant*, threw light on her fate. He had found the *Clarinda*, Captain Crew, at Rio, who had been boarded in lat. 8° S. The pirates chained him to the deck while they robbed the vessel: he saw a bucket, on which he could trace the word *Cumberland*. Some of the pirates proposed that Crew should walk the plank, but were resisted by the Captain. A little black boy, shipped by the *Clarinda* at the Cape de Verde Island, remembered the pirate vessel as often seen in that port.

In what form the *Cumberland* perished is not certainly known. Pirates executed in England for other crimes, were supposed to be guilty of this: more than a hundred and fifty persons perished by their violence. Some they cut down, and others they cast overboard. They were driven to the port of Cadiz by a storm, and attempting to negotiate a bill they were detected. A ship of war conveyed them to Gibraltar, where several suffered; others were forwarded to England, and condemned there. The story of the capture was long a standing topic in the unarmed merchantmen that passed her track. As the emigrant, even now, approaches the supposed latitude, he hears with bated breath the fate of the *Cumberland*, whenever a strange sail darkens the horizon.

#### SECTION VI.

ATTEMPTS were made in the county of Cornwall to form a collegiate institution, for the education of youth and the advancement of science (1826). It was proposed to erect buildings, to govern the college by a directory of patrons,



and to establish a public library and lecture room. For these purposes a fund was contributed : twenty-four persons subscribed £50 each on the spot. A commencement was made at Norfolk Plains; but the project failed, and sunk into a private academy.

In 1828, the government determined to establish a school at New Norfolk, called the "King's Grammar School." The members of the government were the board of guardians: the master was in holy orders. This effort was also frustrated. Such attempts were not, however, lost: they were in reality, not only the pledges but the causes of final success.

But the establishment of the King's Orphan School (1828) was successful. It was chiefly designed for the numerous children whose parents were unable to support them, who had deserted, or who were dead. It was placed under the guidance of a committee, and afforded protection to many children who must have sunk under the influence of a vicious example. In this island the fatherless have found mercy. In the absence of natural ties, the settlers have often displayed a parental tenderness in educating the children of the outcast and the stranger.

The public institutions which multiplied at this period, tended to mitigate the spirit of party. In 1826, several master tradesmen met to project a mechanics' institute. In 1827, they called a meeting of the inhabitants, who having chosen Mr. Gellibrand their chairman, organised the institution: the governor was invited to be patron, the chief justice was chosen president, and Mr. James Wood appointed secretary. Dr. James Ross, called the "Birkbeck of Tasmania," delivered the first lecture (July 17), on the science of mechanics. The second, on astronomy, by Mr. Gellibrand, senior: Mr. Hackett, on steam engines; Mr. Giblin, senior, on astronomy; and Dr. Turnbull, on chemistry, completed the course. Mr. James Thomson gave lessons in geometry to a youthful class. These efforts languished during the absence of the secretary in Great Britain; but in September, 1829, the former lecturers reappeared: contributions were increased, and a library and apparatus were obtained from England. In 1830, two hundred members were enrolled, and the institution was promoted by all classes of society.

Among its supporters, Dr. James Ross occupied the first place: a man whose name will be ever mentioned with respect. His political career does not receive or deserve unqualified praise: as a partizan of Arthur, he sometimes



sanctioned by his pen what it is difficult to vindicate ; but he contributed to the intellectual advancement and external reputation of the colony, beyond any person of his day. Dr. Ross was the son of a Scotch advocate: educated at Aberdeen University, and some time employed as a planter in Grenada, where he became an advocate of negro freedom. He afterwards established a school at Sevenoaks, Kent ; but his family kept pace with his fortunes. He determined to emigrate, and arrived in Van Diemen's Land in 1822. Some error in the shipment of his goods, upon the schedule of which he claimed 2,560 acres, deprived him of one-half. He chose his location on the Shannon, and called his cottage the " Hermitage." Here he was vexed with the incursions of cattle, the perfidy of his servants, the dread of bush-rangers, and the visits of the blacks ; and he willingly accepted the office of government printer, which Mr. Bent had lost. The *Courier*, his newspaper, patronised by the governor, obtained a large circulation, and in 1830 published 750 copies. He wrote with great facility and copiousness. In a letter to a friend, he said—" I write my articles, engrave my vignettes, set the types, adjust the press. Sometimes I set up a few lines myself, and dictate at the same time to one or two of my compositors. Sometimes I write three lines of a sentence for one, three lines of a sentence for another. I teach my own children, nine in all, at the same time that I write paragraphs." \*

A genial spirit, except when troubled by political anger, usually sparkles in the writings of Dr. Ross, and in such case they are rather unfair than bitter. Wherever Arthur disliked, Ross opposed. He denounced the emigration of the poor, and Archbishop Whately charged him with baseness, in supporting the penal system of transportation ; but no colonist would question his sincerity. Dr. Ross retired from his literary labors in 1837, and not long after closed his earthly toils. In his last address to the public, he said, " independence of spirit has been my motto ; freedom my watchword ; the happiness of my fellow-men my object ; and the truth of our religion my buckler and consolation." Such was his account of himself ; and may be left as his merited eulogium to posterity.

A hand-bill, published during the heat of a political quarrel, from the head-quarters of his foes, is a curious specimen of party spleen, and may be taken as the set-off to

\* *Penny Magazine*, April, 1832.

his own :—" Here lieth the body of James Ross, printer : formerly a negro driver : who spent the remainder of his days in advocating the cause of torture, triangles, and the gallows." Then follow couplets, among which are these :—

" Beneath this sod, mark reader, as you pass  
The carcase buried of a great jack-ass :  
Perfidious, smiling, fawning, cringing slave,  
Hell holds his spirit, and his flesh this grave.  
Corruption revels in a kindred soil :  
A carcase fatted on an island's spoil !"

An association, with objects more extensive and more ambitious in organisation, was projected by John Henderson, Esq., a surgeon, from Calcutta (1829). It was denominated the " Van Diemen's Land Society." The members proposed to collect and diffuse information respecting the natural history, produce, mineral worth, statistics, condition, and capabilities of Van Diemen's Land. The governor accepted the office of patron of the society, and its establishment was celebrated by a public banquet. In his account of the institution, the founder and president relates that, although it enrolled the heads of departments and the most respectable settlers,\* he found himself surrounded by spectators rather than co-adjutors ; who, in the absence of " selfish interests" and personal advantage, could not be stimulated to toil. Dr. Henderson, whatever his science, was disqualified by his censorious dogmatism, to rule. His work was an outline of projects, which entered into every imaginable department of political economy, and contemplated a social revolution. On religion, his ideas were scarcely Christian : he combined the Brahmin and the Socialist.

#### SECTION VII.

THE charter of the Van Diemen's Land Bank having expired, it became a joint stock company, and enlarged its capital to £50,000 ; ten per cent. being charged upon discounts. The Tasmanian was a private bank, of which the Messrs. Gellibrand were proprietors. The limited business

\* *Observations on the Colonies of New South Wales and Van Diemen's Land.* By John Henderson. Calcutta, 1832. p. 5.



carried large profits, and the purchase of bills, not passed in the regular course of discount, then, as afterwards, yielded large returns. The Derwent, established chiefly by persons connected with the government, was opened for business on 1st January, 1828, with a capital of £20,000. At the same time, the Cornwall Bank, with £10,000, was established by the merchants of Launceston; and the facility of monetary transactions increased on every side. The arrival of considerable investments from India, brought rupees into extensive circulation, and they formed a great proportion of the current coin.

The large imports of English goods, and the increase of promissory notes, alarmed several persons connected with trade. An advertisement, signed John Dunn, offered a quantity of shares in the Derwent on liberal terms. At a meeting of the shareholders, Mr. Dunn maintained that the liabilities of the community were dangerous, and twenty times greater than the circulating medium. It was replied, that bills were chiefly multiplied by re-sales, and that the cash of the consumer would be transmitted through the whole mercantile chain.

The Van Diemen's Land Bank discovered a singular fraud by the cashier in 1828. Amongst the large accounts, which were unlikely to be drawn, he debited the cash which he employed as a private discount of bills. The sudden presentation of an unexpected draft led to an examination, and £2,000 were found deficient. The money was refunded, except a trifling amount, and prosecution waved.

The interest of the officers of the government in the Derwent Bank occasioned complaint. The risks, liabilities, and antipathies of trade, were deemed unsuited to their duties. At the governor's request, the relation was disguised, but it was not dissolved.

The state of trade at this time wore a deceptive aspect. Dr. Henderson reckoned the actual profit of the colony at  $1\frac{1}{2}$  per cent., while Mr. Prinsep, a barrister, of Calcutta, described every branch of business as a path to opulence. In 1829, a merchant sold £1,500 worth of goods at an advance of 50 per cent., and a credit over three years bearing 15 per cent., amounting to £2,250 in all. A glut sometimes reduced the value of merchandise below the London price.

"See, how I am changed!" said Mr. Prinsep. "Amongst all the beauties, I am beginning to think none so beautiful as the interests of capital. Interests alone on mortgage, with the very best securities, is 15 or 20 per cent. Invest



your money in wool, and it brings you a return of 50 per cent. per annum: in the whale-fishery, 100 per cent. Bank dividends now paid are 16 per cent. I only brought down a broken-winded Arab or two, and their hire pays my current expenses. Money invested in land will be ten-fold its original value in fifteen years. £200 will purchase a noble property here; £1,000 will buy a fine, healthy, and beautiful estate—two hundred of them already in cultivation. The whole colony is on the advance, and its resources remain to be developed." Such was the bright picture published in Calcutta. The influx of speculators postponed the crisis, and prolonged the delusion.\*

The increase of capital, and the opening of cash credits, facilitated the operations of the settlers, but tempted many to ruin. The government rewarded the rapid improvement of estates, the erection of substantial dwellings, farm buildings, and fences, by grants of land in extension. To secure the proffered boon the settlers accepted the assistance of money-lenders, whose claims at length absorbed the proceeds of their toil. During a progress through the colony, the governor visited many establishments, and distinguished the enterprising agriculturist with special favor. On his return to head-quarters he expressed the pleasure his inspection had afforded; and noticed in a public order Mr. Gatenby, of the Isis, as a "good old English yeoman," and an example of enterprise and skill. Well assured that his Majesty was desirous that the character of a plain, upright farmer, should meet with encouragement and reward, he added to this settler's grant 1,000 acres.† The "Gatenby farmers" were henceforth noted as a favored class; and many, anxious for the same recompense, borrowed, enclosed and improved, until they had not a rood of land to call their own.

The most distinguished money-lender was Sheriff Ferreday, whose ordinary charge was 35 per cent., or less with ample security. After a few years (1834) he returned to Europe, having realised £20,000 by usury. At his death, he devised a portion of his wealth to Oxford, to found a scholarship. He suffered much vituperation, probably with little comparative justice. "His bible," said Mr. Gellibrand, "is his bill book, and his gold his god"—a quotation from Burke, highly relished at the time.

\* *Journal of a Voyage to Van Diemen's Land*, p. 108.

† *Gazette*, March, 1828.

The treasury was again robbed in 1832. It was observed the office papers were deranged : constables were stationed to watch, and a sentinel was placed at the door. The sudden examination of the chest by the governor discovered a more serious transaction. It appeared, capital had been borrowed from the chest without authority, to the amount of some thousands ; the money was, however, restored. No public care could reclaim these funds from their tendency to escape, and they were not deemed sure until out of the custody of the government.

The secretary of state directed the public cash to be deposited with the banks. The treasurer was not authorised to retain more than £10,000 of paper, and the Van Diemen's Land and Derwent establishments each received charge of £10,000 cash. During six years, the revenue had risen from £30,000 to £60,000 : notwithstanding a very liberal official expenditure, the surplus funds (1831) amounted to nearly £40,000.

The interior communication was facilitated both by the business of the police and the cheap labor in the hands of the crown. The post of Sorell's time was a private speculation, conveyed on foot, afterwards on horseback. On the 19th June, 1832, a "cheap and expeditious conveyance, to and from Launceston," was announced. The owner, Mr. J. E. Cox, drove tandem, at the rate of forty miles a-day : only one passenger was accommodated, at a fare of £5. The practicability of the journey was then the subject of considerable betting.\*

In 1827, and during two following seasons, New South Wales suffered a serious drought, which increased in severity. Rivers were exhausted, and their beds left dry. Not only the want of rain was felt, but a withering blight, travelling in a defined current over the cultivated districts, cut off their harvests. In two years the cultivation of wheat in Van Diemen's Land increased from twenty to thirty thousand acres, and the average price of wheat at Hobart Town was 8s. per bushel. This stimulated further production, and tended to avert from Van Diemen's Land the distress, which over speculation and scarcity produced in New South Wales.

This dearth was followed by two plentiful harvests (1831),

\* Until 1832, the post was managed by Mr. Collicott, as a private speculation. There were nine post stations. The number of newspapers conveyed by post in 1832, was 13,000 ; in 1833, 102,400.—*Montagu's Statistics.*



and a depression of price. The farmers of New South Wales entreated General Darling to establish a corn law, to check importation. In declining the project, he attributed the successful competition of this country to the superiority of its wheat and facility of transit; and hinted that the elder colony was indebted to foreign supplies for its subsistence.

#### SECTION VIII.

THE powers of legislation confided to Arthur did not slumber. The council which enacted the laws, were chiefly officers of the government, and the discussion of measures was conducted in private. Whatever course they pursued, was justly ascribed to the governor himself. The early ordinances of Arthur added some new burden, or limited some indulgence. Their immediate aspect was, therefore, commonly austere and encroaching, even when their ultimate consequences were beneficial.

To prevent the clandestine sale of liquors (1827), the council authorised a constable, upon a magistrate's warrant, granted on the belief of any person that ale, beer, or spirits were sold, to break open the house and seize the liquor; and unless the owner could satisfy the magistrate, the constable was permitted to stave and destroy the vessels. For the sale, not only were heavy penalties imposed, but unless paid the offender was liable to perpetual imprisonment; and even appeal was prohibited, except the penalty was first paid: one-half to the informer. This ordinance was afterwards mitigated.

The penal character of the colony was constantly indicated in the entire spirit of legislation. Thus a house could be broken into at night, when a person suspected as an absconder was expected to be found there: whoever engaged a convict, though in ignorance of his civil condition, incurred the penalties of "harboring." Publicans were liable to fines for supplying such persons, even with common refreshment. Any man might arrest another, whom he chose to fancy a convict at large. These deviations from the practices of society in its regular state, were occasionally vexatious, but not commonly. The settlers being acquainted with each other, and the servants usually known to the



constables, prevented those practical evils, otherwise inevitable.

Few colonial enactments have occasioned more vexation than the impounding laws. The interests of the grazier and agriculturalist were at variance. When the country was parcelled out for cultivation, the losses and annoyances of the settlers were severe. Their land unfenced, was often suddenly visited by a herd of several hundreds : their crops were trodden down, and devoured in a few hours. The invaders when alarmed were soon beyond reach. Nor was this the sole mischief: tame bullocks, seduced by the interlopers, often joined their flight ; many days were spent before they were recovered ; often they were finally lost. The unfortunate farmer, in the most important season, was compelled to leave his lonely home, and attended by reluctant laborers travel over many a hill and dale in search of the fugitives, with sadness of heart.

At the accession of Arthur, the country about the Clyde and Shannon was stocked with numerous herds, and from their bulk, the lands on which they fed were then called the Plains of Bashan. The herdsmen acquired great skill in tracking and driving the cattle. Their stations were in advance of the located districts, and opened many fine patches of country. Their horsemanship was celebrated : they galloped amidst the trees—now stooping, now leaning to the right or to the left ; avoiding obstruction and escaping collision with wonderful agility. They lived a half savage life ; were the reckless oppressors of the natives ; often the accomplices of the bushrangers, and accused of many crimes. To brand the cattle, they were driven within an enclosure seven feet high, and when exhausted by hunger, one man armed with a pole threw a loop round the horns, another entangled the legs, and the beast was branded with a heated iron ; then turned into the woods, or driven to market. Little caution respecting the rights of ownership was observed : several were capitally convicted, when probably they were careless rather than deliberately criminal.

An impounding law was proclaimed by Macquarie in 1820 ; but cattle being often driven to the pound for the sake of the fees, the ordinance was relaxed by Sorell. This continued the colonial rule until 1830, when Colonel Arthur enacted a more stringent law. The large stockholders were great sufferers, and were compelled to reduce their herds and increase their expense. The constables often corruptly exercised the great power this law gave them : cattle driven

to the most distant pounds were not discovered until their expenses were greater than their value.

The larger herds belonged chiefly to gentlemen, of different families, but of the name of Lord. In describing their depredations, it was said that a party of the E. L.'s, D. L.'s, or the R. L.'s, had made an excursion. The complaining farmer was told that he might impound, but not maim them; but a troop of horsemen were required for this purpose.

The operation of the law was unequal: the small settler fed his stock on the rocks behind his location, where his rich neighbour, who could influence the police, was a competitor. Often his stock were never heard of until sold, perhaps to the son of the poundkeeper. Many hundred were bought for a few shillings each. False claims of damage were set up, and a kind of black mail was levied on the settlers to preserve their stock from molestation. To protect themselves, many of the more opulent settlers obtained the appointment of poundkeepers; and this office was held by persons who claimed the highest station in the country. The incessant complaints in newspapers of the day, partly prove the severity of the regulation. It was, of course, a subject of reproach to the government; yet it is certain that, while the injury was partial, the principle of the law was sound, and its operation on the whole beneficial.

To prevent the increase of dogs, a tax was imposed (1830). The aborigines possessed large packs, from fifty to three hundred. On the destruction of the aboriginal tribes, these animals escaped, hunted in large numbers, and committed great havoc, among the flocks: farmers lost five hundred sheep in a season. By a single gripe these wild marauders destroyed a sheep, and a few minutes were sufficient to strew the downs with dead. A tax was imposed, from 5s. to £1 each. Large establishments required many sheep and watch dogs, and the cost amounted to £8 or £10 per annum. The constables had summary power to destroy canine vagrants without collars, in town or country.

The Huskisson Act applied the laws of England to the colony, and thus it became a question whether the English interest of 5 per cent. were not the limit of lawful usury. The government paid larger amounts on the deposits of prisoners, and capital on such terms must have forsaken the country; the council, therefore, declared the restriction inoperative.

These ordinances were the subject of endless and angry



discussion. The feelings of the community were not carefully consulted, and laws in the main useful, were too often pertinaciously encumbered with provisions both irritating and needless. The motives of the lawgivers were canvassed without reserve. They were supposed to employ their powers to facilitate extortion, in the profits of which they were said to share.

#### SECTION IX.

THE dignity and independence based on landed wealth, is ever the chief allurements of the emigrant. Whatever his rank, he dreams of the day when he shall dwell in a mansion planned by himself; survey a wide and verdant landscape called after his name; and sit beneath the vineyard his own hands planted. To this common ambition the crown directed its appeals: acres, by hundreds and thousands, were offered for acceptance. The imagination of English readers overleaped a tedious interval of labor and disappointment. The generous impulse silenced the voice of fear and distrust: they took a last look at the sepulchres of their fathers, and came forth to establish their children among the founders of nations.

The distribution of waste lands, a most important function of colonial governors, has been a source of incessant perplexity and discontent. Sometimes they have been granted with ridiculous parsimony, and at others with scandalous profusion. Every minister has proposed some novelty: the regulations of one year have been abandoned the next, and the emigrant who loitered on his way found the system changed, which had induced him to set forth.

The stewardship of the royal domain has been liable to difficulties peculiar to itself, beside the full average of official injustice and corruption.

The endowment of emancipists with land, an American practice,\* was unsuccessfully revived in New Holland, and continued until the close of Macquarie's administration, when Commissioner Bigge recommended that no grant should be less than 320 acres.

\* *Eden's Discourse on Banishment.*



Instructions under the sign manual, given to the Governor of New South Wales, dated April, 1787, were amplified by others in 1789. To detain the convict population, and to provide them a future home, were the chief ends proposed. The governor was empowered to shorten their sentences, and convey to each man, if single, 30 acres; if married, 50; and 10 for every child. The marines who accompanied the first expedition were encouraged to settle. The non-commissioned officers received 130; if married, 150; and 10 acres for each child. Private soldiers 100, or 130 acres. These grants were subject to quit-rent of 2s., deferred for five years. The minister, anxious to raise the value of crown land, directed reserves to be made between the allotments, of equal extent; but the settlers persuaded the governor, or the secretary of state, that the intervals favored the assaults of the natives, and the scheme was defeated.

The king's instructions made no reference to the superior officers; but it was deemed absurd to grant the "greatest gifts of the crown to persons who had forfeited their lives," and deny them to gentlemen bearing commissions in the army.\* Ensign Cummings accordingly received 25 acres! The subsequent donations of governors compensated for this modest beginning, and the officers obtained large and valuable portions. One governor conferred a considerable grant on his expected successor, and was rewarded, when he surrendered the government, with a similar boon.† Macquarie gave Lieutenant-colonel O'Connell and his lady 4,555 acres; to John Blaxland, 6,700 acres.‡ Sir Thomas Brisbane obtained 20,000 acres: 15,000 were given to Mr. Hart Davis. These were exceptions to the general rule. Official holders of land were interested in preventing extravagant grants, which lessened the marketable value of their own.

The survey department, always in arrear, neglected to measure off the land, and an order, verbal or written, was deemed a sufficient title. Not unfrequently, the applicant changed his choice, and migrated from one spot to another. The governor often permitted the issue of rations and implements a second time, to enable indolent or insolvent settlers to till a second heritage.§ Trade was, however, more agreeable to many emancipists than agriculture. The officers located near them were willing to purchase their petty

\* *Collins*, vol. i. p. 257.

† *Commons Report*, 1812.

‡ *Bigge's Report*.

§ *Ibid.*

farms: thus the small holdings were bought up,\* and the estates of the greater landholders were cleared of "lurchers," who preyed on their flocks.†

The small grants of land were productive of much real mischief and little benefit. They fell chiefly into the hands of spirit dealers, and the government permitted the purchasers to consolidate all such acquisitions into one large grant.‡

In 1814, Macquarie issued an order threatening the resumption of grants for non-residence or alienation. These notices were rather a protest than an interdict, and were so understood.

#### SECTION X.

VAN DIEMEN'S LAND was divided into counties by Governor King (1805). An imaginary line was drawn across the island from east to west midway; Buckingham being on the south, and Cornwall on the north. Macquarie made sections more minute, by a running survey.

In 1826, letters patent were issued, constituting Edward Dumaresq, chief, and Roderick O'Connor and Peter Murdoch, assistant commissioners, for the survey and valuation of crown lands. They were instructed in delineating counties, hundreds, and parishes, to observe the natural boundaries and recognised nominal limits. The parishes were to

\* "A small farm of 30 acres was now offered to me by Bryan: I recommended Mr. Cox (of New South Wales) to buy it, which he did for £40; half money and half property. I also purchased for him two others; one of 25 acres, and another of 50 acres, from Mr. Hume, for £45; another of 30 acres from Thomas Higgins, for £35; and another farm, of 100 acres, I also purchased for Mr. Cox for £50 and ten gallons of rum. I likewise bought another farm of 100 acres from Captain Campbell for £100; and of Dr. Thompson, a farm of 100 acres, with twenty-five sheep, an old mare, two fillies and a colt, a cow, and a young ox, for £500: the stock, when valued, was worth more than the purchase money. Next year [1801] I bought John Ramsay's farm of 75 acres, for £40; and then Michael Fitzgerald's, with eight large pigs and eighty bushels of maize, for £100. I let this farm, ten days after, for £40 per year. I then purchased Barrington's (the celebrated pickpocket), 25 acres, an old brood mare with a colt at her foot, for £100, and sold the mare a few days after for £85. I then bought 50 acres from Edward Elliot, for £100, and by these means squared the estate."—*Holt's Memoirs*, vol. ii. p. 137.

† "A lurcher is the lowest order of thieves,"—*Holt*.

‡ *Bigge's Report*.



contain about twenty-five square miles. On this task they were ten years employed; but their valuation became available so soon as one parish was proclaimed. The names assigned to the various localities are commonly welcome to the British ear;\* though occasionally productive of confusion.†

The colonial-office published, in 1824, the conditions on which land would be granted: the notice contained eighteen clauses, and formed the basis of subsequent regulations. The secretary of state, however, reserved a discretion in special cases. The parishes were to be surveyed, valued, and sold: for cash, at a discount of 10 per cent., or credit, at four quarterly instalments. 9,600 acres was the maximum allowed one purchaser.

Free grants were offered to emigrant capitalists: not more than 2,650 acres, nor less than 320; a quit rent of 5 per cent. on the value of the land deferred seven years, and redeemable within twenty-five years, at twenty years' purchase. One half the value was to be spent in improvements, on pain of forfeiture. Additional grants were restricted to such as possessed the means of cultivation, and subject to a quit rent from the date of issue.

A more ample explanation of the views of the crown issued from Downing-street, April 26, 1826. The conditions of sale were the same as in the notice of 1824. Purchasers of land were now promised the return of their purchase money, conditionally, that during ten years they could relieve the crown from an expense ten times its amount, by the employment of convicts, rated each £16 annually. One-half this amount was offered, in the redemption of quit rents, on the same conditions; or, when convicts were not attainable, by expending five times the value of the grant, one-

\* *Counties in Van Diemen's Land.*

Northern.	Midland.	Southern.
Devon,	Westmorland,	Kent,
Dorset,	Somerset,	Buckingham,
Cornwall.	Glamorgan,	Pembroke,
	Cumberland.	Monmouth.

† The writer was present when a newspaper was delivered, directed from Sydney to "Launceston, Cornwall." It was conveyed to England, where the Cornish postmaster wrote, "Try Van Diemen's Land."



half the quit rent would be extinguished. Grants in extension were promised,  $2\frac{1}{2}$  per cent. value on improved value of an original grant, on which five times its value should be expended; or having so improved his first purchase, the settler was permitted to buy a second at half price.

By an order published at the Horse-guards, 1826, officers willing to emigrate, not under the rank of captain, were permitted to sell their commissions; one-third of the price deposited with the crown, to be repaid on their arrival, and rated as their capital, gave them a title to free grants. In 1827, the convict clause was withdrawn: the settler was required to produce £500 capital for each square mile he claimed.

Earl Bathurst suggested to the commander-in-chief, and to the lord high-admiral, that it was desirable to promote the settlement of naval and military officers in the colonies. Circulars were accordingly issued from the Horse-guards and Admiralty, in 1827, stating the terms on which free grants might be engaged. Officers of twenty years standing were exempted from quit rents; those of fifteen years standing, for twenty years; of ten, for fifteen years; and of seven, for ten years. The extent of their grant was made to depend on their capital; but they gave bonds for residence and non-alienation during seven years, or until, upon a grant of 500 acres, valued at 5s., £25 were expended. These offers drew a large number of settlers, both civil and military. More than five hundred grants, exceeding 500 acres, were issued in four years ending 1831.

Fictitious schedules of property were sometimes presented, and persons without capital were enabled by monetary loans to deceive the governor. Dollars, borrowed for the purpose, were lodged in the banks to the credit of an applicant. A considerable breadth, comprehending a succession of valuable farms, was parcelled out among several settlers, in virtue of a single bag of dollars, hired for the purpose.

The act of parliament\* authorised the subjects of Great Britain to visit the settlement of New South Wales "without any license whatever." Persons intending to emigrate usually applied to the secretary of state for permission, and an order for a grant. Their references being satisfactory, they received a letter to the governor, directing that land should be given them, proportionate to their "means to bring the same into cultivation." For some time, the settlers for this

\* 53 Geo. iii. cap. 153.

colony were obliged to visit New South Wales, to obtain the requisite permission. To avoid the expense and delay, some entered on lands provisionally assigned them by the lieutenant-governor; but were in danger of being dispossessed by an applicant at head-quarters. To obviate these evils, power was conferred on the lieutenant-governor to locate such as might arrive. Applications from residents were received only at stated periods; and when the herds were exhausted by loans, and the stores by the issue of rations, were indefinitely postponed; but such as brought orders from the secretary of state, were accommodated at once.

The newly-arrived emigrant, distrustful of reports, or ignorant of the nature of the country, usually went out in search of a home. He was received with hospitality as a guest, but found himself unwelcome as a neighbour. Often, after long travel, he would scarcely find a spot within an accessible distance unclaimed. "All that is mine!" was the common answer to his enquiries. A present of sufficient value removed many such obstacles, and gave the wanderer a clue to a desirable resting place. Such as were too dull to comprehend this process of discovery, often lost much time in unavailing toil.

#### SECTION XI.

SIR THOMAS BRISBANE,\* to facilitate the employment of prisoners, required that the grantee should, for every 100 acres of land granted, enter into bonds to employ one convict for the term of his transportation, or the average, ten years. By receiving a second convict for one year, he was promised a bonus of a second 100 acres.

This condition was a serious obstacle to the ready sale of location orders. It was not, however, unnecessary: many casual visitors and masters of merchantmen obtained grants, which they sold instantly and cleared a considerable sum. Land speculators were greatly disconcerted by the incumbrance: many were anxious to throw up land orders, and attempted to recover money for the goods given in exchange.

\* *Sydney Gazette*, 1822.



A trial (1825), in which Mr. Underwood, of Sydney, was the plaintiff, is a curious example of this traffic. The defendant had given in payment for 21 cwt. of sugar, an order for 200 acres of land; but when the convict clause was promulgated, the land was deemed worthless, and the plaintiff sued for £59, the price of the sugar. The judge, however, resisted the claim, and declared that the order had paid for the sugar, although its sale was clandestine and illegal.

The occupation of land was considered a sufficient proof of ownership, if not disputed within a short period, or negatived by written evidence. To resume a location, as the courts were then constituted, required the issue of a special commission, and could be only effected through a jury. On a trial, in which the Rev. Robert Knopwood was defendant, Judge Field stated that the conditions of early grants were practically void. Knopwood had agreed to sell the estate of Cottage Green for £2,000, to Captain Jones, who paid £1,000 in hand, and entered into bonds for £1,000 for payment of the residue. Knopwood bound himself in a similar penalty to give up the premises when the whole sum should be paid. The widow of Jones sued for release from this bond (1821). The lawyers urged that Knopwood had violated the clause against alienation, and was liable to forfeit the whole. The judge refused to entertain this plea; but set aside the forfeiture as unequal: the estate, according to witnesses, was not worth more than £1,000. The judge strongly condemned the unclerical rigour of the defendant. The celebrity of Cottage Green, now occupied by extensive mercantile establishments, gives special interest to the judgment.

Efforts to resume land, not properly conveyed, were successfully resisted; and jurors appear to have determined, at all times, to deny a verdict to the crown. In 1824, in an action for intrusion (*Rex v. Cooper*), the jury delivered a verdict, that "the defendant had obtained possession in the usual manner." The judges asserted that no title was good, except such as passed under the great seal. A locatee, in an action of ejectment (*Birchell v. Glover*), who possessed from 1811 until 1823, was supplanted by a person in 1824, who obtained a grant: the judge directed for the defendant, but the jury found for the plaintiff. A similar case (*Martin v. Munn*, 1833), was tried three times with the same issue. The judge directed, that although long occupation by the plaintiff were proved, the grant to the defendant was a



virtual resumption by the crown : this the jury considered inequitable, and found for the original occupier.

The trial of a cause in Van Diemen's Land (*Terry v. Spode*, 1835), led to the exposure of a fatal error in land titles throughout the colonies. Spode had claimed and taken possession of a portion of land occupied by Terry, who brought an action of ejectment : the jury gave a verdict in his favour ; but it was stated by counsel that both grants were "defective and void in law."

This error had been discovered by Mr. Alfred Stephen (1829). The secretary of state was consulted, and authority received by Arthur to amend the form. The royal instructions had authorised the governors to grant lands, which they had always issued in their own names, instead of in the name of the king. The judges stated that in every case, whether of a subject or the king, a conveyance must be made in the name of the owner, and not of the attorney. These grants were, therefore, utterly void. In New South Wales the defect was cured by special legislation ; but in Van Diemen's Land every grant was subject to an ordeal. Those already issued by Arthur had been legally worded after the defect was discovered ; but the government of New South Wales continued the invalid form, until the judgment of the court led to its revision.\*

The importance of settling the titles to land was univer-

\* Copy of a grant of 1,500 acres :—"Whereas full power and authority for granting lands in the territory of New South Wales are vested in his Majesty's captain-general and governor-in-chief (or in his absence the lieutenant-governor for the time being) in and over the said territory and its dependencies by his Majesty's instructions under the royal sign manual, bearing date respectively the 25th day of April 1787 and the 20th day of August 1789 : In pursuance of the power and authority vested in me as aforesaid, I do by these presents give and grant unto A. B. his heirs and assigns, to have and to hold for ever, 1,500 acres of land lying and situate in the ——— district, Van Diemen's Land, bounded, &c. &c. &c. &c., to be had and held by him the said A. B. his heirs and assigns, free from all taxes, quit-rents, and other acknowledgements, for the space of five years from the date hereof ; provided always, and it is hereby expressed to be understood that the said A. B. the grantee in these presents named, shall in no ways either directly or indirectly sell, alienate, or transfer any part or parcel of the land hereby granted within the said term of five years ; and also provided always that the said A. B. should clear and cultivate, or cause to be cleared and cultivated, within the said term of five years, the quantity of 75 acres of the said land hereby granted, otherwise the whole of the said land hereby granted shall revert to the crown, and the grant hereby made thereof shall be held and deemed null and void, and saving and reserving to government the right of making a public road through such part of the said land as may at any time be required : such timber as may be growing or that may grow hereafter upon the said lands, which may be deemed fit for naval purposes, to be reserved for the use of the crown ; and paying an annual quit-rent of 30s. after the term or time of five years before mentioned. In testimony whereof," &c.

sally felt, but the difficulties were not easily overcome. Prior to 1826, the Van Diemen's Land grants were drawn up in New South Wales. They were full of errors of all kinds: the boundaries, quantity, and names were misdescribed; the land intended for one man was conveyed to another; inaccurate charts, on which grants were marked, multiplied mistakes; the surveyors ran their chains over the land, and marked off five or six farms in as many hours. They erased and altered their descriptions: accurate measurement discovered that many were without a title to the land in their possession, or that their grants were partly occupied by a next neighbour. The dates of these instruments were often arbitrary, yet they bound to cultivation and non-alienation, and often within years already past. Some printed forms contained stipulations not applicable, and became inoperative on the face of them: they described hundreds of acres in excess, but stated that those beyond the king's instructions, should be taken as not granted at all.

When Mr. Alfred Stephen pointed out the defect in form, the government concealed the mistake until the king granted authority for correcting the error by royal warrant, received in 1830. It now became necessary to ascertain disputed titles. It was proposed by some to establish them by a general act: against this course Mr. A. Stephen protested, and pointed out consequences, that proved his objections were just. Many of these illustrate the idle and fraudulent manner in which the public business is often transacted. A grant issued in 1823, gave one side-line 32 acres, written over an erasure. An investigation took place: a record book kept in Hobart Town shewed a similar erasure. The same entry had been preserved at New South Wales, and there it was 22 acres: the holding party was innocent; but his title was invalid. Still more extensive erasures were discovered in a valuable property; the entire description had been changed and another substituted. At Richmond, two persons selected land adjoining each other: their grants had been exchanged, and he who was thus deprived of the most valuable, resorted to a chancery suit for its recovery. At Norfolk Plains a great many farms were located and occupied for a number of years. They commenced their measurements from opposite points, and each farm gradually approximated. When their lands were surveyed by the grant deeds, every owner found that his side-line advanced upon his neighbour, until at last the



central proprietor saw his estate absorbed. In Oatlands, two properties were measured according to the common practice: the side-lines were guessed at; one never cultivated, and the other sold his property; but when measured, the improver of his estate discovered that his homestead, and nearly one hundred acres of his land fell by description to his neighbour.

At Bagdad Rivulet, a surveyor measured eight grants adjoining. All the bearings given in the grants were mistaken: to adjust them, one would lose the back of his farm and take his neighbour's, who would go on the next location and obtain a well cultivated farm.

To have confirmed all former titles would have been obviously unjust. In 1823, a location was given, but abandoned. Sorell advised a settler that came after to take the land, which he did. For fourteen years he lived there, and spent £3,000: the original owner re-appeared with a Brisbane grant, as a claimant of this property.

Colonel Arthur adopted Stephen's recommendation in 1831, and announced in the *Gazette*, January following, its approval by the secretary of state.

All existing grants being invalid, the settlers depended on the justice of the crown to perfect their titles. The royal warrant of the king authorised the renunciation of claims founded on the informality, and deeds drawn in the king's name, containing the same conditions as the governors' grants, were offered at 5s. Now, however, the grants contained a true description of the land, and the name of the rightful possessor. The loose system of conveyancing, formerly expressed rather the intention than the act of transfer. Property had been subdivided, especially in the town: these parcels, however small, were now conveyed direct to the actual owner, subject to their proportion of quit rent. Possession and reputed ownership, were taken as a title. Those whose property was in excess, or less than their description, had their proportion of quit rents adjusted. The governor threatened with resumption lands obtained by exhibiting false pretensions to capital, or alienated before the period prescribed, or by collusive sheriff's sales. Oblivion was granted to breaches of conditions, when not fraudulent, on payment of 6d. per acre fine. Commissioners, James Simpson and George Frankland, Esqrs., were appointed to carry out this admirable plan (1832).

An act, constituting the caveat board a court of equity and good conscience, was passed in 1835. The gentlemen



who framed it held the board, "in the sacred light of a court," although the concurrence of the governor was necessary to render its decisions valid. Commissioners were appointed to examine on oath. They were empowered to obtain a verdict from a jury in a special case: by appealing to the judge of the supreme court, they could submit a feigned issue for trial. In clear cases, however, after three months' notice, they were permitted to adjudicate. The decisions of this board have usually satisfied the public: they have been nearly always confirmed, and have prevented boundless litigation.\*

Many surveyors were employed, who acted in the several districts (1838). The survey of 100 acres was effected for £5, of 2,000 for £20. The list of locations being published, the surveyor-general held a movable court, to identify and arrange the boundaries. It was part of his duty to mediate between the contending parties. These preliminaries being settled, the commissioners issued grants to such as made good their claim.

The proof of intention on the part of any officers, by custom entitled to grant occupation, has commonly barred the rights of the crown; but for this, a large amount of practical injustice must have been inflicted. Such was the only form in which grants could be distributed, when the country was just occupied, and the science of mensuration and accounts almost unknown.

To this, the case of the heir-at-law of Major Abbott is nearly a solitary exception. Being about to retire from office, Major Abbott applied for a reserve of 210 valuable acres at Launceston, and 3,000 acres elsewhere. On the recommendation of Sorell, then lieutenant-governor, who stated minutely the land desired, Sir Thomas Brisbane ordered the ground to be marked off as "crown reserves:" and Sorell, being just superseded, wrote on the order with a pencil the name of Abbott. Several persons at Launceston regretted the alienation of land useful to the township, and petitioned accordingly. Their views were favored by Arthur, and the claim of Abbott was supported by Sorell. Lord Bathurst ordered the grants in question to be given. Arthur, however, again appealed, and the decision in favour of Abbott was cancelled; but the 3,000 acres, reserved in the same terms and at the same time, were confirmed. Major

\* It appears to have been followed in the court, lately instituted in Ireland, for the sale of encumbered estates.

Abbott through life maintained his right to the Launceston reserve, and devolved its prosecution on his son; for twenty years he contested his right with the agents of the crown. During the litigation its value has ranged from £2,000 to £8,000.

On an appeal to the secretary of state, Lord John Russell referred the claimant to trial by jury. He erected a house on the ground: this a chain gang was employed to destroy. He brought his action for trespass, which the law officers met by a demurrer. On his application for a deed of grant, a caveat was entered by Major Wentworth. Two of the commissioners decided in Abbott's favour, and the third, Dr. Turnbull, against him. The usual course was to issue grants on the decision of the major part: this the governor refused, and the case was once more referred to the secretary of state. In 1849, Earl Grey declared that the governor had exercised a sound discretion in refusing the advice of the caveat board,\* and thus finally negatived the claim.

The intention of Sorell in favour of Major Abbott is clear: the provisional reserve of the land in his behalf is clear also. The views of Sir Thomas Brisbane are not so indisputable; but they probably changed on a remonstrance being offered by Arthur. The official answer to Sorell's application was a description of the reserve solicited, unaccompanied with demur or question: it was understood by Sorell to mean approval; and, but for subsequent interference, a grant would have issued of course. Where no corruption can be suspected, actual or ultimate value is certainly no equitable objection to perfect a claim founded on the custom, and created by the authorities of the time.

Except the grants claimed under the Downing-street regulations, lands were bestowed at the discretion of the governor, to the extent of 2,650 acres. Many received still larger quantities at different times. The arrest of robbers, the cultivation of flax or hops, the capture or conciliation of the aborigines, and losses by fire, were occasions for the governor's benevolence; other and less respectable causes were attributed, and scarcely require enumeration.

The large discretion of the governor was asserted by Sir George Murray. Mr. Hall, the editor of the *Monitor*, had been refused a grant by Darling, while others were freely indulged. He complained; but was told by the secretary of state (1829), that the governor could judge most

\* Despatch, 10th June, 1849.



correctly of an applicant, and that his decision would be usually held final.

The collection of quit-rents has baffled the agents of the crown : at first, the amount was too small to repay the trouble of collection, and for both colonies, in 1824, did not exceed £400 per annum.

A large number of grants in Van Diemen's Land became liable in 1831, and notice was given that payment would be enforced. The settlers of Cornwall, led by Messrs. Bryan, Joseph Archer, and Gleadow, signed a petition to the crown, which complained that the exaction was partial and oppressive. The governor promised to forward the memorial, but stated that he had no ground to expect that the claim would be ever relaxed.

Notwithstanding, in 1834, Arthur proposed a composition. He offered a release at ten instead of twenty years' purchase, if accepted within one year ; without, however, allowing any set-off " for convict maintenance"—equal, in some cases, to the whole sum. In 1836, he proposed to intercede with the crown to relinquish all claims up to that year, a bond being given by the debtor for the arrears, if required : these offers were but little successful.

To prevent a return to this topic, it may be added, that in 1841 Sir John Franklin offered to mediate for a remission of accumulations prior to 1835, provided all from that date were liquidated by yearly instalments. The total amount of quit-rent is estimated at £15,000 a-year, including the towns.

The collection of quit-rents is a curious instance of dodging—the government to obtain, and the settlers to evade. Those debtors drawn into payment, could demand in equity that the indulgence granted to defaulters should be communicated to them : they were allowed a set-off in future payments. Those who redeemed their quit-rent were less favored.

The extinction of uncertain obligations would be a public boon, if only for their tendency to produce discontent and habits of evasion. The reservations of timber and material, and right of road-making, are hardly less impolitic. If the law should oblige a proprietor to accommodate his country, equity prescribes his fair indemnity. A functionary might cut through a settler's estate in malevolence, and destroy the approaches to his dwellings, under terms without tangible limitation. In 1831, the government authorised a party to go through an orchard, planted on a Macquarie grant, to enlarge a road to the ferry at Risdon. The owner brought



his action, and the assessors gave him a verdict. The lawyers pleaded the general invalidity of colonial titles, and thus the right of the crown to resume ! In 1824, the roads were thirty feet : in 1827, they were increased to sixty ; and the attempt was made to take from a location given under the old rule, the increased breadth stipulated by the new.\*

"A strange rumour," said a colonial editor, "has reached us, that free grants of land will be conferred no more." Lord Ripon's regulations were published in London, January 20th, 1831. They were framed to obviate the theoretical and practical evils attributed to the easy acquisition of land ; to terminate the prodigality of governors, and the frequent quarrels occasioned by their favoritism ; and above all, to prevent laborers from becoming landholders, and the tendency of colonists to scatter over territories they can not cultivate. This important change, which excited alarm or exultation in the colonies, was only noticed in one London newspaper : with such indifference was a system regarded, destined to produce the most important national consequences.

Except reserves intended for public use, crown lands were offered for sale to the highest bidders, at the upset price of five shillings, and for the first time, to the usual reservation were added precious metals.

Arthur, who greatly disapproved the application of these rules to Van Diemen's Land, where no tendency to dispersion had been displayed, and where free grants of land formed the basis of the convict system, manfully employed the last hours of patronage. The lands in the towns were rapidly disposed of, and all who could prefer a reasonable claim, were readily indulged. A few grants were bestowed by the special favor of Arthur : 205,000 acres were alienated chiefly in grants of extension, due by the terms of the original grants. Those whose expectations were satisfied, were not displeased with a measure which gave a definite value to estates, and when once the principle was established, the higher the price of crown lands, the greater the nominal value of their own.

A large number of persons, by neglect of the conditions, were liable to forfeiture ; but among them were several favorite officers of the governor, or members of his own family. It was stated, without contradiction, that the

\* Bastian v. Bridger.

surveyor-general sold his maximum grant for £1,700, when none of the conditions were fulfilled. An attorney-general not only parted with his property, but obtained afterwards a grant in extension for improvements he never made; and a gentleman, who had not visited the country, but was related to several persons of influence, obtained both a country and a town allotment.\*

Lord Ripon's regulations disappointed many officers intending to settle in the Australian colonies; but against this a provision was made (August, 1831), which entitled them to a remission of from £150 to £300, according to rank. They were, however, to give bonds for residence on the land so obtained.

The ready sale of waste lands seemed to justify their valuation by the crown. In 1832, £44,000 were netted, at nearly twelve shillings per acre. This high average was occasioned by the sale of valuable reserves: those of Ross were sold, some portions at 29s. per acre. The governor complained that the sale of town allotments led to speculation and limited improvements; he therefore offered land on three years' leases, except at Hobart Town, at the usual quit-rent, and exacted the promise to erect buildings of brick or stone. The absence of competition for the country allotments threatened to limit the proprietorship; but this precaution was forbidden by the secretary of state in 1835, when the system of granting lands at quit-rents finally terminated.

#### SECTION XII.

A WORK of Edward Gibbon Wakefield, professed to detect the errors in British colonisation, and to prescribe a new and more effective plan.† It consisted in selling land at "a sufficient price" to combine labor and capital, to collect all the elements of civilisation, to prevent the dispersion of population, the premature possession of land by the workman, and speculation by jobbers. Thus a colony, on this model, was compared to a tree transplanted, the fibres of its roots undivided, and its branches unbroken.

\* *Report on the Disposal of Crown Land, 1836.*

† *England and America.*



For several years previous to this decisive change, the desire had been widely expressed to relieve the parent country by the emigration of paupers. Sir William Horton devoted great attention to the subject. He visited various districts most oppressed by population, and pointed out the methods available to an extensive removal. The Canada Company, which transacted much business with him while under secretary of state, had purchased and re-sold crown lands; and many laborers, who were transferred at their own expense to that country, rapidly improved their condition. A committee of the Commons sat upon the subject, and a bill was introduced by Mr. Horton himself, to authorise the parishes to mortgage their poor rates. It was once intended by the government to levy a tax on convict laborers, and to increase its amount on artizans, and thus raise a fund for emigration: this project, Arthur successfully resisted, and large permanent resources were discovered in the sale of lands. The parishes were not willing to incur the outlay, and it was opposed by many who were persuaded that the poverty of the laborer resulted from oppression.\* The intolerable degradation of the poor led to outrages and crimes. Large numbers were transported for agrarian offences, and many others had no refuge, but to obtain deliverance from starvation by less concerted violations of the law.

Agricultural laborers were driven from town to town; offered by auction at two-pence a day; harnessed to gravel carts; mocked by being sent with a barley straw fifteen miles a day; imprisoned in pits, and kept standing morning after morning in a public pound. Such were the scenes which induced Horton to lecture through the country on redundant population and emigration; and to call the attention of the parliament to the march of poverty, pauperism, tyranny, and crime.†

The proposition of Sir William Horton led to various projects of private parties, in furtherance of colonisation. Grants of land were given to capitalists in proportion to the laborers they conveyed; whom they were permitted to engage as indented servants. The scheme chiefly important to Van Diemen's Land, was the settlement of Swan River. Four gentlemen proposed to government, to convey 10,000 persons, for a grant equivalent. The minister

\* The plan of selling crown lands, and appropriating the proceeds to emigration, was claimed as his own by Galt, the novelist and projector. See *Life of John Galt*, vol. ii. p. 135.

† *Edinburgh Review*, 1849.



thought the project too vast. Three of the four declined : Mr. Thomas Peel, a relative of Sir Robert Peel, still persevered. Many persons entrusted their capital to agents, who presented it, and obtained a title to possessions they never intended to cultivate.

By the regulations published at Downing-street (December 5th, 1828), the settlers were allowed 40 acres for every £3 of invested capital ; 200 acres for every laborer conveyed. No convicts, or any other description of prisoners, were to be sent ; but land granted, was to be forfeited, unless improved within twenty-one years. Thus, those who conveyed laborers, were met by competitors who had incurred no such expenses ; and the conditions imposed neutralised each other. The settler who carried out labour, found his servant desert him to occupy land acquired by the capitalist who carried out money. Of three hundred persons embarked by Mr. Peel, in a few months not one remained to light his fire ; but the recreant workmen were soon reduced to want. Many, under their broken indentures, claimed relief of Mr. Peel, whose flocks had been scattered, and his property destroyed by their desertion. He was glad to hide from their violence, while they were embarking for the neighbouring colonies. Respectable families were compelled to perform the most menial offices, and young women of education were reduced to rags. Contributions of clothing were collected and forwarded by the ladies of Cornwall. Many were brought to Van Diemen's Land, as to a city of refuge : the population, from 4,000, decreased to 1,500, and the ruined landholders petitioned the government for a share of convict labour—a boon which the elder colonies deprecated, and the minister refused (1835).

Swan River seemed to promise a desirable market, and the merchants dispatched vessels with provisions and cattle : Mr. Gellibrand speculated largely. On the whole, the returns were not equal to the outlay ; and although sometimes great profits were realised, Van Diemen's Land was injured by the trade.

Scarcely were the settlers of Western Australia landed, when another colony, Spencer's Gulf, was projected. The authors of this scheme imputed serious defects to the plan of its immediate predecessor. The low price and extensive holdings, the want of combinable laborers, and the imperfect organisation of its social fabric, seemed to account for its disasters. A body of persons, concurring in the Wakefield system of colonisation, and comprehending many

members of the House of Commons, formed themselves into an association, and applied to the government for the necessary powers. After considerable discussion, the minister declined their proposal, and the realisation of their hopes was deferred several years. The more active partisans of the scheme kept it before the public. An act passed the legislature on the 15th of August, 1834, empowering the crown to erect South Australia into a British province. Commissioners were appointed for the sale of land, and for the conveyance of emigrants. It was determined that the price should be sufficient to prevent laborers from buying land, and furnish the cost of their emigration. The company were authorised to borrow £50,000. If, at the expiration of ten years, the population should not reach 20,000, the control of the land was to revert to the crown. With a population of 50,000, they were to obtain the rights of political freedom, and no convict ship was to anchor on their shores. The upset price was at first £1, and, for a time, 12s. per acre. The intended colony was viewed with distrust by the elder settlements for the theoretical character of the plan, and its entire opposition to the then prevailing notions of penal labour. The advocates of the enterprise lost no occasion to denounce the social condition of Van Diemen's Land and New South Wales ; where, however, the scheme was pronounced insane, and destined to certain disorder and ultimate overthrow. The appearance of new speculators in the Australian colonies compensated them for these reproaches. In publishing their plans, the company had always referred to supplies within their vicinity, as an immediate and certain reserve. The Tasmanian merchants met them on the shore of the royal province. Sheep were sent over as the basis of their flocks ; timber for their huts ; and the various produce of rural wealth, originally brought at great cost from Europe. A long succession of adventurers raised the value of produce throughout the colonies ; and individuals realised large profits in the trade ; but when the arrivals from England ceased, the new colony was involved in whatever misfortunes its peculiar plan was supposed to avert. Many hundreds, driven out by poverty, settled in the penal colonies, and the property of Adelaide became unsaleable : the frail dwellings were deserted, and the land lay utterly waste. Of the Adelaide traders, scarcely a house escaped insolvency, and the loss was total. Those who remained turned their land to account : their flocks increased, and the discovery of the mines happily realised more than their early hopes. The



lands sold by the company were freed from the mineral reservation.

An old gentleman, named Mengè, formerly an attendant on a distinguished German geologist, was the discover of its mineral riches. He was employed by Mr. George F. Angus to select his special surveys. His occasional choice of rocks and barren soil excited ridicule and astonishment; but he was accustomed to say, "the wealth is below, not upon the ground." He lived in the cleft of a rock at the junction of the Gawler and Para, near a plot of forty acres, almost surrounded with water, where he cultivated melons of every variety. He spoke many languages, and had travelled through Germany, Switzerland, and Iceland. A mineral collection he made, is in the University Museum, Edinburgh. His excursions in South Australia were intrepid, and extended far: he carried a wallet and a hammer, and subsisted during his wandering on gum. His conversation was visionary; and his predictions, at the time, but little regarded.

The coast of New Holland, opposite to Van Diemen's Land, was almost neglected since the removal of the colony in 1803. Various reports were brought by whalers of its suitability for sheep farming. Howell, Hume, and Batman had explored the country in 1824, and had acquired some knowledge of its quality. In 1827, an application was made by Messrs. J. T. Gellibrand and Batman to General Darling, for permission to land stock, to the amount of £50,000, in the neighbourhood of Western Port. This project failed; but in 1835, Mr. Batman, called the Australian Penn, acting for certain colonists, of whom a nephew of Arthur was one, proceeded to Port Phillip. Several Sydney blacks, under his care, had acquired the English language, and accompanied him thither. This important expedition embarked in a colonial vessel, and landed on the 26th May, on the shore of Port Phillip. The civilised blacks were now decked with native ornaments, and advanced towards the fires of the aborigines; but they had fled. They were, however, tracked by Batman's company, who opened a friendly conference, and were perfectly understood. The natives displayed some apprehension, and intimated they had already experienced injury from the English. Batman gave them presents of tomahawks and trinkets, and conciliated their fullest confidence. Some time after, the party met the chief of another tribe, who had heard reports of the white man's liberality: he conducted them towards the huts; but in their progress they were surprised by an hostile array of the natives. The



blacks of Batman's party called out to them, and amity was established. Batman took the spear of the chief, who carried his gun. He then proposed to live among them: the conditions were explained to their satisfaction. The treaty of Penn with the Indians was the model of the covenant with the tribe of Dutegaller. They conveyed a track of 600,000 acres, for blankets and other objects of native desire, and an annual payment of similar articles to the value of £200. This deed was signed, sealed, and delivered by the natives in due form.

The report of this expedition was presented to Arthur, who warmly concurred in the occupation, and approved the consideration of native rights; but observed that those rights had been disregarded in the recent colonisation of South Australia, and that Port Phillip was within the government of New South Wales. Arthur was desirous of making that territory dependent on Van Diemen's Land. The minister favorably noticed the proposal; but in the meantime Governor Bourke asserted his claim, and declared the company intruders, and their bargains with the natives void.

Notwithstanding, the colony now opened was occupied by many adventurers. Their sheep were rapidly transferred, and the greater portion of the early inhabitants were settlers from Van Diemen's Land. The settlement was suffered with reluctance. The theory of concentration had been adopted only a few months before; but, except by setting up a government on the spot, it was found that an illegal occupation of land could not be prevented. Governor Bourke wrote to the secretary of state, that whatever the general wisdom of concentration, an opposite course was necessary for pastoral wealth; and that to neglect nutritious food, would be to reject "the bounty of providence." He proposed to sell the land in townships, and employ the proceeds in the public service.

Lord Glenelg confessed that the scheme of concentration was not of universal application: that Lord Ripon's regulations were not everywhere desirable, and that it was proper to tolerate the ardour of private enterprise; to moderate its course, and gather up its fruits. The Dutegaller association was dissolved; but not until they had given an impulse to colonisation, more rapid than any example offered by history. This peaceable occupation, contrasted with the cruelties inflicted at Twofold Bay—a whaling station, now rising into a province.

While these plans of colonisation were in progress, the

social condition of the penal colonies was constantly discussed. To correct the evils admitted on the spot, and to obviate the dangers apprehended at home, it was determined by the ministers to promote the emigration of mechanics and females. One series of plans were proposed for New South Wales and Van Diemen's Land, and with the same general results. The policy of government required the emigration of free mechanics.

The employment of prisoner artisans by the local government, was disapproved by the crown, and Colonel Arthur was instructed to assign them to masters, and contract for public works. In defending this measure, he had maintained that the high rate of wages would subvert the design of transportation: the employer would indulge the workmen, and to obtain their full strength supply the means of sensual gratification.

In 1831, a notice appeared inviting the opinions of the colonists on the subject of emigration. Lord Goderich solicited the assistance of the settlers in removing the population which the colonies might employ, and England spare. They were requested to state what amount of money they would engage to afford, and what class of servants they required. Such as contributed to the cost were promised a preferable claim to engage them. The notice was received in silence: no public meeting was held. The servants of the Van Diemen's Land Company had generally deserted their employers; and in the colonies, the valuation of pauper laborers, compared with convicts, was not great; and although some extended their views beyond the moment, the chief object of most persons was to secure a fortune and be gone. The settlers dreaded the vicinity of small farmers, as fatal to the discipline of their men, and to the safety of their flocks.\*

This notice was on its way, when Lord Howick, on the behalf of the colonial-office, addressed the lords of the treasury, and proposed a loan of £10,000, to be repayed by the land fund. The proceeds of sales were then a matter of conjecture; but it was the opinion of the secretary of state, that these resources should be devoted to emigration, especially of females. He calculated that a growing population would more than compensate for the cost, by extending the

\* "We are much mistaken, if the letters addressed to the secretary exceed six, and they are written by the paid magistracy."—*Launceston Advertiser*, 1832.



basis of colonial revenue (1831). In this view their lordships concurred, and a commission was instantly appointed, to carry out the design.

During this emigration the supply of labor exceeded the demand, and a benevolent society was formed to succour the numerous poor. The governor advised that no laborers, except mechanics, should be sent, and four members of the legislative council protested against the outlay. They stated that the support of 10,000 prisoners, without expense to England, was a sufficient benefit for a colony to confer; that the "poor house prisoners," and the "gaol prisoners," were equally demoralised; and the first more insolent and uncontrollable. They contended that the expenditure of the land fund out of the colony was to complete the mischief resulting from the cessation of grants, "the calamities of which it was fearful to anticipate."<sup>\*</sup>

The colony was thought likely to afford a desirable home for Chelsea pensioners, who commuted their pensions for four years' payment. Forty-six embarked in the *Science*, with Messrs. Backhouse and Walker, whose reports of their conduct explain their subsequent misfortunes. They were intemperate and thriftless, and passed the voyage in disorder. The women were nothing superior to their husbands.† On their arrival, they expended their money, and sunk into misery. To this there were some exceptions, and here and there an old soldier may be found, whose property has risen in value, to a competence for his declining life. The land they were enabled to acquire was, however, generally too small in quantity to yield a living, from their unskilled and irregular toil. Their distress excited more discussion than sympathy. They requested the sheriff to call a meeting, to inform the crown of "their unspeakable sufferings."

The home government resolved to advance £20 to married mechanics willing to emigrate to this colony. They gave the parties the amount, who were expected to sign a warrant of attorney for its repayment within two years. Many emigrated, but few paid: a Mr. John Hose, who did so, was noticed for his singular honesty; but the greater part evaded the liability with success. Females were expected to repay £8 towards their passage; but many were minors, and the proof of their hand-writing was not easy, and few

\* Protesters:—Charles Swanston, Charles M'Lachlan, Richard Willis, John Kerr. October, 1833.

† Backhouse's Narrative.



regarded the obligation as just. The demand of this pledge contracted the choice of emigrants: many country girls refused to sign their names to a paper, promising a sum equal to the English wages of a year; or to enter into engagements, of which they could not see the end. The ordinary revenue was charged with payment and collection arising from this scheme; but the land fund eventually defrayed the loss.

A succession of vessels, with mechanics and females, anchored at Hobart Town: the *Amelia Thompson* at Launceston. A committee of ladies in London, of whom Mrs. Fry was the most distinguished, undertook the selection of the females. They were commended for their philanthropy and care in England: in the colonies, they received but little praise. Mr. Marshall, a considerable shipowner, was appointed agent. To fill his vessels, was said to be the main object of his efforts, and that he held a low scale of female morality would not be unacceptable. The statements of the colonial press were often indiscriminating and highly unjust: many valuable women were included in these immigrations; many were girls of tender years, whose chief fault was their ignorance.

The debarkation of these females occasioned scenes, more subjects of regret than of wonder. Thus, on the arrival of the *Strathfieldsay* (1834), the fair emigrants, 286, most of good character, were indiscreetly landed at high noon: 2,000 persons awaited them on the beach. Their feelings were outraged with ribaldry and insult: they were astounded at their reception, and many wept. The ladies of the colony protected and advanced them; and some, whose want drove them from their native country, remember the day with gratitude when they first pressed the soil of Tasmania. 1,280 females were brought to the colony in three years, ending 1835; and rather more to New South Wales.

The emigrant rarely appears to advantage: the occupation of a new sphere, in which his position is uncertain, renders his manners awkward, and his expectations ridiculous. The disorderly conduct of many made their presence a burden, and their civil condition no great advantage to their masters. Yet, since it was necessary to labor or to starve, the greater portion chose the better alternative; and the women of decent habits, found that destiny for which nature designed them.

The extravagant expectations formed by many emigrants, fostered by reports of individual success, which when sub-

stantially true are still exaggerated by fancy, were commonly disappointed. The suspicious coolness of strangers ; the high price of provisions ; the comfortless dwellings, with their awkward fuel ; the absence of conveniences, which are not valued until lost ; and the memory of home, produced a depression of spirits, only overcome by reason or youth. But their complaints of after years, are the result of affection and habit : they pretend to have sacrificed a lot, from which in reality they escaped ; and forget that in the midst of those scenes they profess to regret, they often wanted a meal.

A curious instance occurred at an early time : a settler took a location order and provisions, and went out to commence his labors. He was disheartened by the obstruction of the forest : at his first stroke, the axe was shivered ; he threw it down in despair, and returned home in the vessel that brought him out.

The emigrants were not, on the whole, inferior to other persons of their education and calling ; and were often justified in resisting the tyrannical spirit and disposition to oppress, which the habits of colonial life do not extinguish. This emigration, amounting to 7,000 for both colonies, is an epoch to be remembered for its influence on their fate.

These events revolutionised the social state of the colonies. Free workmen and their families formed an intermediate class, whose interests were hostile to a penal government, and to bond labor in every form. The individual importance of employers consoled them for their political dependence ; and the subservience of transportation to their material prosperity, reconciled them to the restrictions it imposed. The free workman found it an obstacle to his advancement : it depressed his wages and debased his position, but gave him nothing. If his industry raised him, he yet retained the sympathies of his early life : he remained distrustful of the rich, jealous of rank, and fond of the equality of human rights. Trial by jury, legislative assemblies, and official responsibility, found earnest advocates, where they had often been mere rallying points of personal discontent.

All this was foreseen by Arthur : when free laborers were intruded by the crown, the great bond of his system was broken.

## DISPOSAL OF CROWN LANDS IN NEW SOUTH WALES AND VAN DIEMEN'S LAND.

Authority.	Date.	Terms.	Superseded.	Remarks.
King's sign manual to Governors of New South Wales.	1787 and 1788.	Residence on the grant. Cultivation and improvement. Reservation of naval timber. Quit rent: emancipists, 6d. per 30 acres; free settlers, 2s. per 100 acres, after ten years.	1810.	100 acres only to any person, over the quantity allowed to emancipists.
Governor Macquarie.	January 1, 1810.	Quit-rent, 2s. per 100 acres. Cultivation of a proportion (20th part) in five years. Reservation of naval timber. Right of forming highways. Non-alienation in five years.	November 30, 1821.	Town allotments usually leased at Hobart Town for twenty years, quit rent 10s. per acre; only were granted, 1820. Allotments were occupied at Launceston on permission of the commandant.—Hager's Report.
Governor Brisbane.	July 11, 1822.	Omits cultivation clause, and saddles every 100 acres with a convict servant. This was cancelled by indorsement on some grants, on condition of cultivation.	Colonial Office, November, 1824. Notified in Van Diemen's Land, 10th May, 1825.	
	1823.	Grants liable to quit-rent of 10s. per 100 acres.		



Colonial Office.	1824.	Convict clause inserted. Purchase money repaid, if claimed within ten years, or for the redemption of quit rent. Quit rent 5 per cent. value.	Convict clause withdrawn, in 3rd edit. of notice, 1827.	Town lots granted on specified expenditure within three years, and non-alienation for 18 months.
Governor Arthur.	April, 1826.	Settlers who could obtain no convicts, allowed abatement of half quit-rent; or a new purchase at half price, who should expend five times value of the grants, given or sold them.		
	1828.	Land Board established; capital required, £500 for each square mile granted. Land sold at highest tender; one-half left on mortgage for twelve years, at 5 per cent. Precious metals reserved.	January 20, 1831.	
Colonial Office.	January 20, 1831.	Order: all land to be sold by public sale; upset price 5s., conveyed in fee simple at a pepper-corn rent. Precious metals reserved, and indigenous produce for public works.	August, 1838.	
Colonial Office.	August, 1838.	12s. per acre.	1842.	
	1842.	£1 per acre.	1845.*	

\* 1845.—The Act 5th & 6th Victoria, chap. 36, repealed; as to Van Diemen's Land only: which returned to the status of 1787.

## SECTION XIII.

THE increasing population of the Australian colonies led to important changes in their monetary institutions. Hitherto the stock employed in banking was supplied by the merchants, or invested by East Indian capitalists. These local relations were not without their advantages : they enabled the banks to extend accommodation beyond the ordinary usage of companies subject to more extensive and complicated interests.

The announcement of the "Leviathan," as the Bank of Australasia was called, created the usual amount of discussion. The capital was desired by those who had occasion to borrow, and dreaded by such as were interested in lending. It was incorporated in 1835, and commenced operations the following year. By granting bills on London at par, the manager first drew largely on the current coin. Treasury bills were no longer the cheapest remittance, and the disposition to purchase them declined. The outcry of the local banks reached the legislative council, and it was proposed to make a treasury bill a legal tender. An act passed for the purpose, but was never called into force by proclamation. The resources of the English enabled them to vex and contract the sphere of the colonial establishments ; but had treasury bills become a legal tender, they could have redeemed their own notes by their payment, and thus recovered the coin which found its way into the coffers of the stranger.

At Launceston, the quarrel between the Australasia and a local bank, afforded much sport to those not deeply interested. Of the Tamar Bank, 20 per cent. only had been paid on its capital, which was exceedingly small compared with its discounts and issues. Every morning, the agent of the London took a wheel-barrow to the Tamar bank, attended by an armed guard, and carried away the dollars in exchange for notes. The superior strength of the Australasia soon brought the contest to a crisis, and Mr. Gilles, the manager of the Tamar, shut up his books. He, however, first gave warning, that such must be his course, unless it was agreed to restore the dollar bags to the state before the war. To this it was replied that, perhaps, the Tamar had exceeded the just limits of its capital, and an offer made to discount a bill for its accommodation. In the end, time

was given. The parties concerned were more frightened than hurt : no serious injury was intended.

In 1837, the Union Bank of Australia, with a capital of £1,000,000, divided the field. This institution was formed in England, under the auspices of Mr. Philip Oakden, a merchant, of Launceston. With such spirit was the project accepted, that the amount was subscribed in one day.

The chief objection to these banks was their tendency to create a class of absentees, whose revenue withdrawn from the colonies would add nothing to their welfare. To this it was replied, that the repayment was intended to be made from profits the colonies would divide with the London capitalist, which, except for his assistance, could not be obtained.

The last business address of Arthur to his council, expressed his antipathy to the London bank, and his hope that the monopoly attempted would not be successful. He asserted that the proprietary, an absentee body, had no interest but their own to regard, while the local banks were colonial in every sense. These were his views of finance, and they were characteristic of the time.

#### SECTION XIV.

"THE glorious 23rd of May !" Such was the day and month of 1831, separated by those who witnessed its achievements to everlasting renown. The excitement of the campaign against the blacks (see vol. ii.) had absorbed political animosities, and brought all parties together ; but by this time the popularity of the governor was spent. The struggle for parliamentary reform agitated Great Britain, and the colonists determined to attempt the recovery of their rights as Englishmen. So lively was the interest in the affairs of Europe, that the tri-color was mounted by more ardent politicians. The last wave of revolution, which had scattered thrones, rippled on these shores.

A meeting was called by the sheriff, and the principal speakers were the Gellibrands, Crombie, Cartwright, Abbott, F. Smith, Meredith, Lascelles, Gregson, Dunn, Jennings, Kemp, Hewitt, and Lowes : of these, none were so con-



spicuous as Mr. Thomas Horne (a relative of the great Horne Tooke), afterwards puisnè judge, and who was described as the "honest barrister" by the admiring press. "If crushing," said the learned civilian, "is to be brought into operation, no doubt I shall be crushed. Let them crush me, and they will associate my name with the record of this meeting, which history will preserve to the latest period of time." The object of the movement was to bring under the royal notice the government of the colony, and to demand trial by jury, and a legislative assembly. The petition to the king was entrusted to the custody of Mr. Sams, who was proceeding to Great Britain. Whether it ever reached the throne was a matter of dispute: some said it had been committed to the deep, with much solemnity; others, that it had passed from the messenger to the hands of a merchant, who disregarded its fate. It obtained no reply.

The colony had just reason to complain at the time. The supreme court had been closed for many months: the business of the legislative council detained the judge and attorney-general from their proper functions, and for nearly two years no gaol delivery had occurred at Launceston. Two persons, father and son, charged with cattle-stealing, had been two years awaiting trial, when they were both acquitted. The evidence against them was of the slightest description; yet during their detention domestic calamities of all kinds had overtaken them.

The delay was still further extended by the issue of a new charter, and with the usual incaution of the secretary of state. This charter arrived 1831: it nominated Mr. Pedder chief justice, and Alexander Macduff Baxter, puisnè judge. It made no provision for continuing process begun in the late court, and required colonial legislation to cure the defects of its details.

Mr. Baxter, the puisnè judge elect, had been attorney-general of New South Wales. His relations with Darling had not been cordial, and he was disgraced in the eyes of the public by domestic differences: his wife was insane, and he himself was intemperate. Just before he left Sydney for Van Diemen's Land, he was bound over to keep the peace, and was declared insolvent. On his arrival, the royal warrant for his induction had not reached the colony, and after some delay he returned to New South Wales, and thence to Great Britain, where he died. Mr. Baxter ascribed his ruin to his grant from the crown: he employed

persons to look after his estate, and they conducted him to beggary.\*

The lieutenant-governor resolved, if possible, to exclude Baxter from an office which he could only dishonor, and passed an act, pronounced by the lawyers a piece of "doubtful and dangerous" legislation, by which the clause of the charter requiring two judges was expunged, thus constituting the court of one. The act of parliament, however, authorised the measure: the council had power to repeal or annul a patent, until the pleasure of the crown were known. The act was approved, and remains among the laws. Occasions might occur, when the course of justice would be arrested in a small community by requiring many officers to constitute a court.†

The reformers were not disheartened by their failure: they assembled again the following year,‡ at the request of the Hornes, the Gellibrands, and the Gregsons. The effort was unavailing. In 1834, it was renewed with still more earnestness: the former parties, reinforced by many important accessions, maintained the popular cause. Repeated disappointments excited some bitterness, which was expressed in strong terms.§ Mr. Thomas Horne reminded the home government that they would make "a dissatisfied and turbulent people, ready to use their power, and assert their rights, if necessary, by force of arms." He advised the oblivion of minute grievances, and said, "were the angel Gabriel to propose one measure, and Satan another, if he considered Satan's the most politic, he should have the honor of adopting it."|| But neither importunity nor threatenings prevailed.

These efforts were renewed in the following year; but in

\* Letter to Darling, 1830.

Major Mudie says—"Being scarcely ever sober, he left his business to be done by a convict clerk, who had been a lawyer of some sort previous to his transportation from England."—p. 245.

† 9th Geo. iv. sec. 22.

‡ August 13, 1832.

§ Captain Glover stated, that the events of the 23rd of May had been dramatised in the following strain:—"The ambassador of that meeting was admitted to the king: "Ho, ho, Mr. Ambassador," said the king, "the people of Van Diemen's Land want an assembly, do they; what do they want it for?" The posed ambassador replies, "Because they do, your Majesty." "Because they do, Mr. Ambassador, is that the reason they gave?" "Please your Majesty, I am not certain they gave that reason." "What do you think of that, Goderich?" says the king. "Oh, all nonsense," said Goderich. The ambassador, on retiring, requested an answer, and was informed, "there was none." The ambassador, in his turn, asked the reason. "Why because we wont—that's all."

|| From the *Tasmanian* report of meeting.



1835 some of the chief advocates of a legislative assembly deprecated the penal institutions of the colony, and proposed that all convicts, on their arrival, should be set free : of this plan, Mr. R. L. Murray was a distinguished advocate.

A deputation from the meeting for free institutions, requested the intercession of the governor with the crown ; but he replied, that if the grant of free institutions, and the discontinuance of penal coercion, were connected by one common advocacy, the interests of the colony, of the crown, and of philanthropy, would demand the most serious precaution. He maintained that all British rights were conceded, " excepting the elective franchise ;" and quoted with more cleverness than dignity, their statements of colonial opulence, to show how little they had suffered by a former denial of their prayers.

Mr. Gellibrand, senior, was a person of intellectual tastes and lofty spirit. His early life had been spent among liberal politicians : he was a zealous advocate of freedom, but still more of knowledge and virtue.

Mr. Gellibrand, junior, was a lawyer of popular talents, whose practice as a barrister made office of little importance, and who, when discarded by Arthur, opposed him with incessant vigour. His eloquence was never exhausted, and his learning as a lawyer obtained him consideration in the court, which his boldness as a pleader often threw into jeopardy. Mr. Thomas Horne exhibited a fervour in the popular cause, worthy his kinsman. The rest were chiefly settlers, and patriots from resentment or conviction.

These meetings preserved the principles of constitutional freedom ; and if they did not hasten its possession, reiterated its lessons and prepared for its enjoyment. Whatever temporary turmoil the meetings created, they were conservative of great interests, and deserve a grateful remembrance. These appeals to the British legislature were commonly accepted in silence : by the crown they were graciously received and forgotten. They had no perceptible influence on colonial policy, and only acquitted the settlers of indifference to rights, which can never be valued at too high a price.

The surplus revenue, accruing from year to year, suggested to the secretary of state the imposition of police and gaol expenses on the colony. The non-official members of the council, except one, voted against the appropriation. They denied that the supposed advantages conferred by prisoner labor, justified a claim on the colonial funds for the support



of a great national object; and they added this remarkable passage:—"The influx of moral pollution has been perpetuated, and the colony doomed for ever to be the gaol of Great Britain, and destined never to rise to any rank among the British colonies."\* A dim fore-shadowing of that universal sentiment to which the constant attempts to lessen the profits of prisoner labor gave rise. The revenue was largely dependent on the consumption of liquors, and upon habits which generate crime and impose expenses on the public. It received an appropriate destination: funds contributed chiefly by drunkards for the repression of criminals. Such was the apology for exactions enormous, when compared with the population; a view not easily impugned, except that in such cases the interest of the government ceases to be hostile to vices which increase its wealth.

## SECTION XV.

THE case of Mr. William Bryan was before the public for many years. Mr. Bryan was an enterprising settler, and owned 11,000 acres and extensive herds, and was engaged in many speculations of public utility. He erected a valuable mill, and under his auspices a company was formed, which purchased a steam vessel. She was brought to the colony by Captain Alexander Wales: when, however, he arrived, the project was defeated by the altered position of Mr. Bryan's affairs.

Samuel Arnold, a herdsman of Mr. Bryan, was convicted of cattle-stealing (1833), and sentenced to death. The police magistrate, Mr. Lyttleton, who committed him for trial, alleged against his master a culpable incaution, and Judge Montagu uttered a severe censure from the bench on the same account. Mr. Lyttleton, on going outside the court, addressed several gentlemen, of whom Mr. Dry was one. He remarked, that though the man was sentenced to die, he would do his utmost to save his life; and added, that another person ought to be standing in his stead. This was supposed

\* Signed by C. Swanston, T. Anstey, J. Kerr, C. M'Lachlan, R. Willis, W. A. Bethune.

to refer to Mr. Bryan, who deputed a young friend, Mr. Lewis, to demand an explanation, or appoint a meeting. Not only did Lyttleton decline this, but he transmitted an account to the government, and the attorney-general prosecuted Lewis for endeavouring to provoke a duel.

Mr. Bryan now appealed to the public, and tendered his resignation as a magistrate: he complained that he had been calumniated, and satisfaction refused. Arthur rejected his resignation, and dismissed him from the commission of the peace; and instantly recalled his assigned servants, twenty-two in number. Thus deprived of laborers, in the midst of harvest, his crops rotted on the ground; and his stock neglected, became diseased and were scattered. He was indebted to the sympathy of his neighbours, and to the extent of his wealth, that his property was not destroyed, and his credit wholly subverted. The effects of this measure were disastrous, and excited general distrust.

Bryan ascribed his treatment to an early difference with Arthur. The land he obtained on his arrival was less than he claimed, and he appealed successfully to the secretary of state; but he was told by a friend of the governor, that this was an offence not to be pardoned: no man could appeal against Arthur with final impunity.

Mr. Bryan was not altogether a martyr. He received upon the whole 4,000 acres of land; and in a letter to Arthur, he wrote:—"Permit me to return you my sincere thanks (as much for the manner as the matter) of your very kind letter of the 11th instant. To the same principle of impartiality which you have evinced in my cause, I leave the increase of my grant, resting quite satisfied that if my exertions deserve it they will be rewarded."\* Mr. Bryan had then received 1,500 acres; he afterwards received 2,500.

Mr. Bryan instituted an action against Mr. Hortle, the agent of government in the recall of his servants. The issue depended greatly on the manner of trial—whether by assessors, or a jury of twelve. The court possessed a discretion. The law officers asserted, and the judges allowed, that the colonists were disqualified by common interest to form an impartial judgment, and a jury was refused. Bryan then dropped the action, which he objected to entrust to assessors, directed perhaps by a member of the executive: for the same reason he withdrew his proceedings against the police magistrate for defamation of character. He returned to

\* Letter produced by Mr. Kelsy, of the Colonial-office.



England : sought redress from the ministers, but in vain. On this case the opinion of impartial persons can hardly err. Yet the right of the governor to withdraw men, though not to be exercised in a wanton and destructive manner, was hardly to be disputed. The opinion of the English law officers of the crown favored that view, although it would be dangerous to take their version as decisive. "We," say they, "are clearly of opinion, that under the 9th section of 9th Geo. iv. c. 83, governors can revoke assignment of a convict, of whose sentence it is not intended to grant any remission ; and we think there is nothing against the apparent policy of the act which militates against that construction."

For carrying a challenge to Mr. Lyttleton, Lewis was put on his trial. The conventional turpitude of the offence wholly depended on the provocation. A magistrate could not be covered by his privilege when standing in the street, and announcing his opinions to the loungers there ; but Lyttleton, himself the sole witness, denied the words imputed, and his cross-examination was impeded by the court. Lewis read a written defence, and reproached the attorney-general with prosecuting an offence recently committed by himself: for this the accused was fined £10 by the judge, who advised him to retire and revise his notes. On resuming his speech, he was again stopped and fined. Complaining that the course required by his defence was unjustly obstructed, he became silent. A military jury found him guilty ; and the judge condemned him to pay £150, and suffer an imprisonment of eighteen months.

The aspersion of the character of a magistrate by an imputation so serious, was the sole alleged justification of the challenge. The words attributed to the police magistrate, Lyttleton, he had denied ; but, on his return home, became convinced by the testimony of Mr. Dry, sen., that he had sworn falsely. He communicated this impression to the attorney-general, but without result.

The conduct of Judge Montagu, on the trial of Lewis, was represented as harsh and captious ; but was explained by subsequent disclosures. A clever barrister, who secretly advised the accused and framed his defence, went into the judge's room, before the sitting of the court, and in conversing with Montagu intimated the very improper course Lewis intended to take. Montagu replied, he would certainly fine him. It was under these suspicions, that he began the trial : he was thrown off his guard, and the prosecution



involved in an irreparable mistake. When the court sat to sentence the accused, the lawyer was there to urge the illegality of the conviction.

Lewis complained to the secretary of state, who referred his case to the law officers of the crown, who asserted "that it is an unwarrantable proceeding, on the part of a judge, to fine an accused party for saying anything which he may consider essential to his defence, provided it shall be consistent with public decorum." The secretary of state directed compensation: this, a board estimated at £1,700. The governor was, however, desirous of depriving Lewis of the indemnity, and the legislative council resolved, seven to four, that the observations of Mr. Lewis were not within that qualification; and requested that, if the secretary of state persevered in his determination, he should pay the complainant from the land fund. Such resistance was obviously official, and without moral weight, and the money was eventually paid.

Several months after the departure of Mr. William Bryan for Great Britain, his nephew, Mr. Robert Bryan, and another, were charged with cattle-stealing. The constables who professed to watch the prisoners, alleged that they saw the animal in question driven homeward by the accused, and on the second day following discovered the skin thrown into the scrub. Witnesses contradicted the constables, who were all prisoners of the crown, in some material points. The young man was sentenced to death. The capital penalty was not inflicted; but it was the popular notion that he was the victim of a conspiracy.

The young man, Robert Bryan, was tried on two separate indictments, and such was the evidence, that many unprejudiced persons concurred in the verdict: yet the witnesses against him were open to suspicion. It was commonly asserted that he was sacrificed; if not by the contrivance, with the concurrence of the government.

The trial was reported by the *Colonial Times*. The editor, Mr. Henry Melville, pointed out in strong language the suspicion of unfairness; the dependence of the jury; the presence of the governor at Launceston during the trial; the infamous character of certain of the witnesses; and the overruling a challenge of a juror by the prisoner. The remarks of Melville were carried beyond the tolerated bounds of public criticism; the attorney-general, Stephen, induced the court to issue an attachment. The defendant was required to admit the authorship: this being done, the judge whose

conduct he had censured pronounced the sentence.\* To judge, condemn, and imprison, at once and by the party offended, included all that tyranny could ask. Any reference to the proceedings of a court, which the judge might choose to pronounce a libel, might consign to perpetual imprisonment. A similar case, at Newfoundland, was discussed in the House of Commons, and the ministers joined the opposition in severely reprehending the practice. The papers published the debate, and Arthur slowly obeyed the signal, and gave Melville his liberty.

Motions for attachment have not often disgraced the administration of justice: they are relics of barbarous times. This process was issued against Fawcner, the editor of the *Launceston Advertiser*, who escaped by an apology; and it was moved for by the attorney-general, Stephen, against Murray and Melville, for calling an affidavit of the solicitor-general—to the effect that a fair trial could not be obtained in Bryan's case with a colonial jury—"an extraordinary document!" The judges dismissed the application, when Stephen remarked, that he "thanked God he despised the observations, as well as the scoundrel-like motives which influenced them."

The intermixture of cattle of various owners, in the extensive forests belonging to the crown in the northern districts, afforded opportunities for plunder, and frequently occasioned disputes and quarrels. The herdsmen were often careless and dishonest, and their masters were liable to share the reproach of their mistakes or guilt. The marks distinguishing such property easily escaped the memory: it was often left to the choice of the magistrate to commit for felony, or resign the dispute to a civil tribunal.

The constabulary were mostly prisoners of the crown. Their office entitled them to an earlier attainment of their liberty than other convicts: the detection of a serious crime gave them claims for a still quicker liberation; and the desire of freedom prompted them to lay snares for persons suspected, and even to commit a crime that they might charge it on the innocent. Thus, they would sometimes slaughter a branded beast, and throw its skin on the premises of the selected victim. Such atrocious wickedness was certainly not common, but that it sometimes occurred is beyond all doubt.

\* Twelve months imprisonment, £200 fine, and sureties in £500 for two years.



Captain Serjeantson, of the 40th regiment, a gentleman connected with several opulent settlers, was murdered (1835). The family collected £500: to this the governor added £100 more, for the discovery of the murderer, who was found to be Hunt, a bushranger, afterwards shot by a small settler, and who dying confessed the crime. In this case, a constable, Drinkwater, proposed to another to earn their free pardons. The plan sketched was to deposit shot in the hut of a man at Campbell Town, who was suspected, resembling that extracted from the body of the deceased. A constable, invited as an accomplice, betrayed the project; not, however, until the proof of its existence was indisputable. The same constable had proposed to throw a sheep stolen from the flocks of Mr. Willis, on the premises of a man, "on whom there was a down."

The intentional encouragement of perjury cannot be imputed to the government; but necessity induced a most perilous laxity of feeling. Thus on a trial, the judge not only stopped the case, but committed the prisoner policemen for perjury: these persons were discharged by the attorney-general, and established again as constables. Their oaths had already produced several capital convictions, and they became qualified to accuse and convict the most upright men. The ignorant police agents considered that the successful prosecution of any person, regarded by their officers with hatred, would entitle them to benefits; and even the prisoners in service discriminated between those whom they might accuse with impunity, and such as were protected by their connections. Nor was this all: in the height of political excitement, a prisoner was arrested in the neighbourhood of Mr. Gregson's dwelling, who avowed his intention to assassinate that gentleman, in the expectation of a reward.

The affair of Mr. Bryan increased the anxiety of the colony to obtain trial by jury, independent of the court and the influence of the executive. By the custom of England, this privilege could only be suspended by martial law, when the ordinary courts were closed: wherever the authority of the crown was recognised, the accused was entitled to trial by his peers. Nothing could be more alien from the habits of Englishmen, than to lodge the functions of grand jury in the hands of an officer of the crown, or commit life or liberty to the verdict of a military jury. A paramount necessity required the practice for a time; but a change was delayed, by the hesitation of the government, long after the colonies contained a body of freemen.



The decision of Judge Forbes, instanced in a former page, which determined that the common law right remained with the session of magistrates, had been acted on for a time. Emancipists sat on these juries, and exulted in the privilege. Their press, in publishing the list, distinguished the members of their body by affixing stars (\*) to their names. The act of parliament (1828) set aside the interpretation of the judge; but when it took away the common law right, it gave power to the crown to authorise the institution of juries, at the discretion of colonial legislatures. Thus an ordinance entitling to trial by jury in civil cases, was established in New South Wales (1829). The chief justice strongly favored the eligibility of emancipists, who were three times more numerous than the immigrant population. The non-official members of the council were generally opposed to their admission; but the measure was carried by ten against five. Thus, although the trial of criminal causes still remained with the military, the courts could not withdraw civil wrongs from the verdict of civilians. By this act the officers of government were liable to some responsibility, and in several instances were cast in damages, notwithstanding the efforts of the crown to defend them.

While civil jurors were confined to civil issues, they sat in the box occupied at other times by the military jury. An officer had amused his leisure, while sitting on a trial, by tracing caricatures of the civil jurors, and writing libels on the benches. Thus insulted, they appealed to the court for protection. The judge was unwilling to interfere; but being pressed, remarked, that were the authorship traced to a military juror, he would close his court rather than intrust to such hands the administration of justice (1830).

The hostility of the opulent emigrants to the eligibility of emancipists was intense and lasting. This was still more active when the trial of criminal issues passed into their hands (1833). They asserted that the criminal at the bar was too literally tried by his peers, and that scenes disgraceful to public justice were enacted in the retiring room. It required all the authority of the court to repress antipathies so openly avowed. The rancour excited by this question is scarcely credible: a gentleman addressed the judge from the box before he was sworn, and asked if he was expected to deliver a verdict with twice convicted felons? Appearances of partiality and corruption were quoted to prove the pernicious effect of their admission. The magistrates, usually hostile to the measure, returned as fit

and proper persons, those whom they knew would disgrace the box. Some flagrant cases were exhibited as specimens of the whole: a juror, out on bail for horse-stealing, resolutely acquitted another charged with cattle-stealing, and was convicted himself. Thus, it was said, returns to the summons of jurors, in one instance, was "hanged;" in another, "transported for life."

These were certainly blemishes, but they were magnified into radical and incurable defects (1835). The complaints of the gentry, induced Governor Bourke to take the opinion of the judges and the law officers of the crown: on the whole, they were fully satisfied with the result of the law. It was remarked by a judge, that the accused would sometimes choose a military jury, or a jury of twelve, according to the nature of the offence: in cases of aggravated violence they often preferred a military jury, but where conflicting testimony was likely to occur, they preferred the greater number, only as less likely to agree. Forbes stated that the chief difficulty was confining the juries to the question of fact; but their verdicts had generally satisfied him. It was the opinion of the judges, save Mr. Justice Burton, that trial by jury had been too long deferred, and that benefit would result from its unqualified adoption.\*

In Van Diemen's Land, an ordinance was passed (1830), permitting the judge to allow a jury in civil cases, whenever it was desired by either party. The names were twenty-four: from these both parties struck out six, and the remaining twelve were the jury. The first trial occurred 1830 (Butler *v.* Bent), in an action for libel, contained in a series of letters written, or acknowledged, by Wells, an emancipist, and signed "Simon Stukely." They were afterwards collected into a volume. The chief persons in the colony were described with considerable spirit, but with the usual injustice of anonymous satire.†

\* *Par. Pap.* 1837.

6th Geo. iv. c. 5, disqualified a person to serve convicted of any capital offence, except free pardoned.

7th & 8th Geo. iv. c. 28. sec. 13, gave to a conditional pardon under the sign manual the same effect as great seal.

In cases not capital, service had the effect of free pardon: 9th Geo. iv. c. 32. sec. 3.

All the laws of England were adopted by the Act of 1828: thus the disqualification for jurors, in cases capital, was taken away.

Judge Forbes stated, that in civil issues the juries had some difficulty in comprehending the distinction between law and fact: *ad questionem facti respondent juratores, ad questionem legis iudices.*

† The original Simon Stukely was a quaker, who went to Turkey with an



The danger to the fortunes of the people was more severely felt than the peril of their liberty and lives. Thus a public meeting, demanding trial by jury, was held in 1834: an address was presented to Arthur by a deputation. In urging the amendment of the law, they referred to the extraordinary powers possessed by the government. Arthur, in reply, professed a liberal desire to gratify their wishes; but denied that he possessed extraordinary powers, or that "they required to be watched with more than usual jealousy." He had, however, deferred the establishment of British laws to the last possible moment, and certainly possessed great powers; on the whole, more capable of perversion than any ever known in a British colony.

The attorney-general, Alfred Stephen, was desirous of substituting for the assessors a jury of seven, instead of twelve. His project was opposed by Mr. Kemp, and indeed very generally disapproved. It was argued, that the chances of influence multiply as the number of jurors are decreased, and that the national practice was the only safe guide. The amount of discussion that attended the dispute was prodigious: pamphlets, and letters without end. The prejudice of the people was, however, on the right side: although there is nothing sacred in an even number, the retrenchment must have increased the facility of corruption. The law, as it ultimately passed, removed the danger, by giving either party a right to demand a jury; and to the party against whom the application was made, a choice between a petty and special jury; but three-fourths were taken as the whole, after six hours deliberation.

This act was framed in virtue of an order of council by the king in 1830. It provided that in criminal prosecutions where the governor, or any inferior officer, civil or military, could be interested in the result of a trial, a jury taken from the special jury list should try the issue.\*

To Arthur the colonists were not indebted: the secretary of state had, long before, announced the determination of the government in favour of the measure. It was not carried out until nearly four years after its authorisation. The removal from the colony of the stigma of military juries, was delayed until 1840, when the trial of crimes and misde-

intention of converting the Grand Turk: he narrowly escaped decapitation, by the interposition of the English ambassador. He was afterwards confined in an asylum: in answer to inquiries how he came there, he replied—"I said the world was mad, and the world said I was mad; and they out-voted me."

\* Passed, 5th November, 1834.



meanours was entrusted to the hands of the inhabitants, and the grand bulwark of public and private freedom raised in Tasmania.

The convictions for perjury were not numerous: the whole system partook of the unsoundness of its elements, and the inhabitants were indebted for their safety to those principles of humanity, which, in the absence of interest and passion, regulated the measures of the government, and restrained its agents from atrocious conspiracies.

#### SECTION XVI.

THE *True Colonist* newspaper was published daily during 1835: the editor, Mr. Gilbert Robertson, filled its columns with strictures on government, and in a style which might be termed heroic, if inspired by truth. The rashness of his imputations was never surpassed. He heaped on the governor, and the members of his administration, charges of misdemeanour and felony. One day he denounced them at the police-office, and the next printed his accusations *verbatim*. He libelled the governor (whom he accused of altering a deed after its enrolment) in a paper, headed "a fearful discovery;" and declared him not less deserving than others of a capital conviction. Robertson charged an overseer of Arthur with feloniously receiving hay for the governor's use, and with his connivance. His nephews, Captains Forster and Montagu, were each accused of a felonious appropriation of property belonging to the crown. For these imputations, Robertson suffered fine and imprisonment;\* in part remitted by the clemency of Arthur. Such charges were a buckler to the governor against the current scandal of the time. They were transmitted to the colonial-office: they destroyed the moral weight of the press, and

\* "I charge Mr. Fitzpatrick, late overseer of the government farm, with stealing or embezzling a quantity of hay, the property of the crown; and one John Compton, the overseer of Colonel Arthur's farm at the Marsh, with receiving the hay. I also charge Mr. Davidson, late superintendent of the government garden, with embezzling, and Captain Forster with receiving, four Norfolk Island pines, value £20, the property of the crown. I have another distinct charge against Captain Forster, and one against Captain Montagu, for stealing or receiving certain building materials, the property of the crown."  
—*True Colonist*, Feb. 26, 1835.

cast suspicion on just complaints, yet emanating from a community which tolerated such extravagance.

It is not to be inferred that the opponents of Arthur's government, generally sanctioned these excesses. The violence of periodical writings resulted partly from the paucity of topics, and was mainly a necessity of trade. The limited field of discussion huddled all disputes into a squabble. The writers could not forget the names of their antagonists : they espoused with vehement zeal the trivial quarrels of this or that functionary ; officers, who were dismissed, supplied anecdotes of those left behind, which were worked up in every form. The want of ideas and information would have withdrawn many writers from the combat, had they not possessed CAPITALS, exclamations (!!!), and dashes—officered by epithets of horror, as an army of reserve. These attempts to impart energy to weakness, and terror to insignificance, gave to the articles of many old newspapers the aspect of auction bills, rather than political disquisitions.

The reader of a better era may fancy this description shaded ; but the writer, in preparing this work, has explored many a volume, and shudders at the memory of his toils : he would not assign them to his worst enemy. Such were not all : there were writers on either side, whose opposition was discriminating, and who enlightened the understanding without debasing the taste. The press was the more licentious, because nothing else was free ; but it raised a barrier against official corruption. Men of integrity were annoyed, but rarely injured. It intimidated the corrupt, and protected the oppressed. Considered in detail it was often detestable ; but it prevented mischief more serious and lasting.

These contentions embittered colonial life : they were daily renewed. The topics they embraced were rarely interesting beyond the moment : they filled the ephemeral publications of the day, and they now lie entombed in those repositories of the literary dead.

From 1831 to the termination of Arthur's government, the circulation of newspapers prodigiously increased : the improvement of the postal establishment facilitated their spread. Settlers, who delighted in their controversies, or dreaded their censure, subscribed to them all. With a few honorable exceptions they rivalled each other in recklessness of statement and roughness of diction. No lover of truth will accept their testimony, or transmit their praises.



They were often what they were denominated by the chief justice—"a moral guillotine."

The spirit of contention was promoted by the peculiar fabric of society. The great majority of the colonists were below the period of human life, when the temper becomes cautious and the passions calm. Its narrow sphere magnified their temporary importance. Every man might claim, or forfeit benefits the government could bestow, and thus multitudes had personal grievances, or unsatisfied expectations. The hostilities of the day were almost invariably associated with some sense of individual wrong. A grant of land desired by one, was given to another; a valuable servant was denied on some public pretence, and then assigned to a favored applicant. One found his mercantile tenders always rejected, while another, by some unintelligible process, engrossed the custom of the crown. A youthful stranger was invested with the honors of a justice, when colonists of long standing were left undistinguished. The infractions of rule involved one master in public disgrace; another, was a licensed transgressor. Such was the complaint, which might be easily illustrated by examples; but they are such as a knowledge of mankind will amply explain, and are inevitable when the form of government is arbitrary, and where its functions enter into all the details of private life.

This was felt towards the close of Arthur's administration, and many, not prone to party strife, were anxious for its termination. The meetings to petition were more frequent, and assumed a more general character. As the causes of dissension became better understood, the patronage of the governor ceased to be considerable, and no colonist was a lover of unprofitable despotism. These sentiments prevailed in both penal colonies.

A "political association" was formed in Van Diemen's Land: a standing council was organised, under the auspices of certain leading politicians, who discussed the measures deemed necessary to amend their social and political condition. Mr. Thomas Horne, the secretary of this body, opened a correspondence with the governor, and endeavoured to direct his attention to its complaints. Arthur declined recognising his credentials, without an express sanction from the crown. The association, however, carried on its debates. The council deliberated in public: the members were assembled in the body of the hall, and spectators were admitted to the gallery. Their proceedings were reported in



the newspapers, but with party coloring. By Dr. Ross they were turned into bitter ridicule: his remarks were retorted with cruelty and insult. A storm collected around him he could not disperse, and he laid down his pen soon after, with expressions of ill-concealed anguish.\*

## SECTION XVII.

THE recall of Arthur, long anticipated by his enemies, at length arrived. Some months before, he had been informed by the secretary of state, that "having continued him in his government for the unusual period of twelve years, the crown intended to name his successor." On the recommendation of Mr. Huskisson, the duration of an ordinary government was limited to six years: special reasons withdrew Van Diemen's Land from the operation of this rule.

The ministerial changes at the seat of empire left Arthur's influence unimpaired. The variations of national policy rarely reached his sphere. Unwelcome orders he managed to modify or evade. The difficult nature of his duties, the distance of his government from supervision, and the weakness of the free population, enabled him to assume and maintain for many years a discretion all but unlimited. The state of the colony on his arrival has been already noticed. The measures he adopted to coerce and control the convict population, and to subdue the aborigines, will be found in the second volume of this History. He repressed the outrages of the lawless, and restored comparative tranquillity. Under his auspices the chief town, which he found consisting of a few frail dwellings, assumed the aspect of a commercial city. Many, he received in chains, were established in social happiness: many immigrants, who arrived with slender resources, had risen to opulence.

A series of forty-seven statistical tables, prepared by the colonial secretary, his nephew, exhibit a progress then almost unexampled. In 1836, the revenue had increased from £16,866 to £106,639; the imports from £62,000 to £583,646; the exports from £14,500 to £320,679; mills from 5 to 47; colonial vessels from 1 to 71; churches from

\* *Ross's Almanack*, 1837.

4 to 18 : the population had risen from 12,000 to 40,000 ; and every branch of public and private enterprise exhibited the same general aspect.

It would be absurd to ascribe to Arthur even the main credit of these results : they were the effect of that spirit of industry which ever characterises the native of Great Britain, and which nothing can wholly extinguish. Nor was this prosperity without alloy. The unproductive improvement encouraged, was sometimes unhealthy. The settlers were deeply involved : the valuation of property was raised beyond reasonable calculation. The pleasing delusion was cherished by the members of the government, whose official and private interests concurred to dupe them. Happy were they who sold. Arthur left many who, acquiring his favour by the extent of their outlay, and the vigour of their enterprise, were laden with debts from which they never recovered, and a prey to perpetual solicitude.

The great demand for sheep and cattle, created by the establishment of new colonies, gave a temporary respite : flocks were sold at £2 per head, and were purchased in large quantities. These ameliorations were only transient, and the wide regions open to adventure lessened the worth of those properties which had been valued by the farms of Great Britain, not the unpeopled wilds of New Holland.

A just estimate of Arthur's administration, must include all the peculiarities of his position, and the complicated interests he held in trust, whether they relate to the imperial government, the free, or the bond. The measures best for the colony were not always compatible with the design of its establishment. Nor must we forget that, in surveying the past we have lights which rarely attend the present ; that much which experience may amend, it is not possible for wisdom to foresee.

The primary object of the crown in colonising this island, was accepted by this governor as the chief aim of his policy. The settlement of free men he considered but subsidiary to the control and reform of the transported offender : their claims, their duties, and their political rights were, in his view, determined by their peculiar position. They were auxiliaries hired by royal bounties, to co-operate with the great machinery of punishment and reformation. As the representative of the crown, he stood off from the colonists in their sympathies and ultimate views. Employed not to build up a free community of Englishmen, but to



hold in check the criminality of an empire, with him the settlement was an institution requisite to the effective execution of penal laws. Such he found it : such he desired to mould its growth, *and to prolong its destination*. Thus, except in the capacity of employers, he regretted the arrival of free men, and warned the ministers of the crown, that by their encouragement of emigration, they were destroying the value of bond labor, the dependence of the settlers, and the adaptation of the island for the purposes of a prison.

Thus, in his official correspondence with colonists on subjects of a political nature, Arthur always avowed hostility to liberal ideas, and scoffed at their solicitude for the common rights of English people. While the opposition could avail, he resisted the liberty of the press, trial by jury, and open discussion of legislative measures. His remarks were often in a tone austere and reproving ; nor did he think himself obliged to preserve that dignified complaisance which softens the differences of political life. The settlers were expected to stay at home, to keep their servants in custody, to denounce their infractions of penal rule, and as the " materials of prison discipline," (so they were denominated) to carry out a judicial sentence. They knew, before they came, they must sacrifice British rights, and with the political or social influence of transportation, beyond their own fences, they had no concern.

As an officer of the army, the profession of Arthur was not unfavorable to the main purpose he avowed : the process he conducted was, of necessity, harsh and imperative. In the selection of instruments, he preferred military men : they were without colonial scruples, and when the government was unconcerned, perhaps, without partiality. They were deficient in legal knowledge, and as magistrates sometimes overlooked the material facts ; but they despised the reproaches of the press, and the censures of civilians.

In the course of his administration, Arthur had most places at his temporary disposal : he filled them, wherever possible, with his friends ; and he left his nephews in the highest appointments within their professional capacity. Arthur drew out a minute detail of official subordination : the duties prescribed for his officers were defined with labored exactness, and the reins of control met in his hands. Everything was referred to himself, and his instructions were definite, and generally irrevocable. Many persons appointed by the crown were dismissed, or thrown off, by his contrivance. Accident placed many offices in his provisional



gift. Baxter, a judge elect; Gellibrand, an attorney-general; Ferreday, a sheriff; Thomas, a treasurer; Burnett, a colonial secretary; O'Ferrall, a collector of customs; and many in lower station, relinquished or lost their appointments, by the determination of his inflexible and unflinching will. The forfeiture was sometimes obviously just; but it was a maxim of his government to fill the departments with persons who knew no patronage except his own. Among them were candidates for the same gifts, who looked for fortunes beyond the limits of their duties: they cultivated farms; became competitors for prisoner labor; and speculators in commerce. The supreme court and the newspapers were often occupied by their recriminations: sometimes they exchanged challenges, and sometimes writs. The colonists in opposition saw, not without some gratification, dissensions which seemed to weaken the common enemy; and the press was often enriched by the malice of official pens. Many were, however, too wise to quarrel: their quiet industry enabled them to combine their public and private employments, without scandal, and with success. They were, indeed, accused of speculation; but specific charges were generally rebutted, and can now only be noticed as a rumour, and dismissed as detraction.

The officers trained under Arthur acquired his tact, and imbibed his spirit: the least deemed himself something superior to the richest trader, or the most enterprising colonist. The sub-divisions among themselves were minute and rigorously enforced. They were, however, subject to vicissitudes. Those who lost their appointments furnished the material of libels: reported the peculations and duplicity of their late colleagues, and often became distinguished for their patriotism.

The patronage permitted to Arthur was enormous: to a large extent he was the almoner of the crown. Thus disaffection became highly penal: a quarrel with a magistrate, or a friendly intercourse with persons under a ban, exposed the delinquent to serious pecuniary loss. These considerations were avowed.\* The dread of injury made the timid servile,

\* Mr. Meredith, of Swanport, captured bushrangers; but after their trial was anxious to intercede for their lives. He applied to the police clerk, a ticket-of-leave holder, for a copy of his own deposition, and that of his servant: this, not uncommon, was called a breach of trust. The clerk was punished, and Meredith warned that he would receive no more servants, except he could explain his conduct. A report reached the government, that himself and Mr. Amos set the magistrates of the territory at defiance, and he was told his servants would be probably recalled. This was a practical application of Arthur's

and corrupted private intercourse. A secret influence pervaded every rank : society was embittered by suspicions and the dread of denunciation ; and had not the growth of population decreased the comparative power of the government, or had its original plan been perpetuated, it must have formed a community of slanderers and slaves. The intentions of the governor, however just, could not save him from the falsehood of spies, and thus the perpetration of wrong. It was early announced that opponents would be "crushed." The extent of the "crushing system" was greatly exaggerated, and even the course of good government was commonly ascribed by the sufferer to official enmity and avarice.

The industry of Colonel Arthur was constant : his attention to the details of his government, and his perseverance as a despatch writer were universally admitted : a large proportion of his time he spent in his office, and toiled with an assiduity which would have been fatal to ordinary men. It was commonly stated that he was not very accessible ; but he willingly heard those whose education and habits qualified them to suggest. Persons of every rank were admitted to an audience on a slight pretence. He was quick in estimating the characters and capacities of all who approached him.

The executive council was useful to Arthur, without obstructing his measures. When he resolved on a project, he would nominate a board, and obtain its sanction. When his private views were opposed to his instructions he affected impartiality, and seemed to yield rather than to guide. These artifices were well understood ; but the colony often approved the object, and admired the ingenuity of its execution. A new colonial minister, in the hurry of his office, gladly surrendered to the governor's judgment a question often beyond his comprehension, and which to resist it was necessary to understand. Thus it was ordered to execute public works by contract instead of the gangs ; to levy a tax on convict labor ; to retain men seven years in chains. Boards, or commissions, which gave him the aspect of a mediator or judge, advised him to postpone and

views, before expressed to the same settler. The governor maintained, that when the secretary of state authorised a grant of land, it did not confer a claim on the government for the assignment of servants (*Letter to Mr. Meredith from the Colonial Secretary*, 1828). It was alleged, that the conduct of Meredith had been inimical to the government, and to the maintenance of internal tranquillity.



quash the disagreeable order or restriction. Thus during his government his influence was paramount, and inferior functionaries were satellites who obeyed his impulse, or were driven from their spheres.

The chief justice alone could pretend to independence : by his seat in both councils he possessed a voice in the enactment and administration of the laws—a subject of continual suspicion and complaint, and really dangerous whenever the government was a party. The chief justice ultimately resigned his seat in the executive council (1835). The secretary of state had declared in parliament that legislative and executive offices were incompatible with the proper functions of a judge.

The great works of Arthur were attributed by his opponents to sinister motives : those most frequently mentioned were the new wharf at Hobart Town, the road to Richmond, and the Bridgewater causeway. Arthur benefitted by his foreknowledge. The imputations of personal injustice or corruption were unfounded : what he gained, others did not lose, except by the common risks of a sale. Thus the property of the Rev. Robert Knopwood, whom he was said to defraud, was several times in the market : it was offered by advertisement many years before : its future appropriation to commerce was predicted, and was described to enhance its price. It was offered by Mr. Knopwood to Mrs. Hodgson for £800 : it was purchased by Mr. H. Jennings, a nephew of Mr. Gellibrand, senior, without reference to Arthur ; and was finally sold to his agent at a small advance. The new wharf rendered the purchase highly advantageous ; but there was neither deceit nor oppression.

The great work he began at Bridgewater, where a magnificent causeway forms the abutment of a bridge which connects both banks of the Derwent, was a task of many years : many thousand pounds in value lie buried. Arthur had estates in its vicinity. The other charges of corruption are of a similar nature, even less substantial than these.

But although many of his works will perpetuate his memory while the country lasts, they could only be justified by their connexion with penal arrangements. The discipline prescribed did not admit of rapid movement or wide distribution. Huts were necessary for the convicts, houses for their officers, and various stores ; and it was only on extensive excavations that labor could be inspected with success. The waste of expenditure was rather apparent than real. The objects contemplated were not colonial ; and thus,



if the local obligation is lessened, the ground of complaint is diminished.

During his government, Arthur became wealthy : his estates were numerous, and their sale realised a large amount. That he acquired them improperly is not even capable of suspicion ; that he applied clandestinely the means afforded by his office to improve them, is equally destitute of evidence. Nor is it easy to see how a community can be injured by the outlay of capital acquired in its service, or the interest of its officers in the soil. The moral weight of government was compromised far more by the air of mystery which veiled, than the corruptions which debased it. The outcries raised against the disposal of land in special instances, were often misdirected : many deviations from strict impartiality were prescribed by the secretary of state, whose discretion was unlimited by regulations. Arthur was silent, and his character suffered : he despised reproach, which notwithstanding impaired his influence for good. Just before his recall, Mr. William Bryan made statements before the Commons of mis-appropriation of crown lands, which had been the text of colonial articles without number, when a secretary from the colonial-office stated that the more serious were unfounded ; that many were ministerial acts ; and the whole series were reduced to comparative nothingness.\* While Arthur had the power, he was not sparing in its use : he endowed his friends. Nor is it incredible, that a private service to himself detracted nothing from weight of public obligation.

Arthur was no fickle or hesitating patron, and the qualities he approved are nearly allied to virtue : he appreciated humanity, sobriety, industrious habits, and religious decorum. Respectable men, who did not question or cross his path, might usually calculate on his complaisance. But those who reckoned up his estates ; numbered the benefits conferred on his friends ; estimated the cost of his government ; or criticised his public works ; found that he did not fear, although he detested them. The imperial officers cared not in what direction his patronage was turned, and their nominees experienced and praised his generous discretion.

The impressions of devout men were usually favorable to

\* At p. 154 of this volume, it is said, that an attorney-general (Stephen) received an additional grant for improvements he never made. This, Mr. Stephen contradicted, and stated that when he obtained his maximum grant he was not in office. The statement was made by Mr. Bryan before a committee of the House of Commons.

Arthur: he told them his objects and trials with apparent humility and devotion. He listened with deep attention to their plans of usefulness, and talked, especially of the prisoners, in strains of christian compassion. His sanction was given to every benevolent scheme, and he gathered around him a very large proportion of those persons who care more for the circulation of religious knowledge than the civil enfranchisement of mankind. The ready countenance of their labors lessened, in their view, his civil faults. Nor can it be denied, that the decorous habits of the governor confirmed his religious pretensions. Wherever he appeared, ribaldry and drunkenness vanished. The open licentiousness of public officers he did not tolerate, except the offenders were distinguished by official cleverness.

Addresses from all denominations of christians expressed their admiration of his religious sympathies and his moral worth; and in the most bitter outburst of party spirit, his domestic character was never assailed. The testimony of Messrs. Backhouse and Walker, members of the Society of Friends, would generally be adopted by most persons of their class:—"Our first interview with Colonel Arthur gave us a favorable impression of his character as a governor and a christian, which further acquaintance with him strongly confirmed. He took great interest in the temporal and spiritual prosperity of the colonists, and the reformation of the prisoner population, as well as in the welfare of the black inhabitants.\*

Messrs. Backhouse and Walker were authorised by the Society of Friends, and sent on a religious mission to these colonies: they brought a letter of introduction from the secretary of state, Lord Goderich, requesting the governor to forward their benevolent object.

The more violent opponents of Arthur, connected with the press, afterwards retracted their opinions; but their statements must be read with equal caution, whether they censure or praise.†

\* *Backhouse's Narrative*, p. 15.

† "At the time to which he (Mr. Hall, of the *Monitor*) refers,—we say it with the deepest regret—we suffered ourselves to be influenced by a set of heartless, self interested beings, whose opinions we blindly adopted, and to whose objects we were the dupe. Other circumstances produced a state of excitement which can never again exist here, because it can never be again endured."—*Tasmanian* (Mr. R. L. Murray), June 25, 1833.

"We were forced into opposition by what we conceived to be an act of unmerited, unprovoked injustice, which we resented; and the perpetration of which led us to listen, and to be influenced, by the opinions of those into whose intimate



A collection was made by Arthur's friends in token of their regard, supposed to exceed £1,000 in value. It, however, indicated rather their liberality than their number: individual contributions were not limited. The addresses were signed by many who were conciliated by his moral sentiments, but disapproved of his government; they however, seemed to justify the ministerial applause which crowned his administration. Sir George Grey referred to these tokens of esteem, as evidence of popularity, and the contentment of the people.\*

Arthur held his last levée on the afternoon of his departure:† several hundreds were present, collected from all parts

associations we were drawn. We thereby provoked persecution, which we resented: we were prejudiced by these persecutions, and our opinions and the expression of our feelings were influenced by this feeling of unmerited suffering, and by the opinion of those into whose association we were driven." . . . .  
 "If we have, in our editorial capacity, wronged any man, we sincerely ask their forgiveness; and wishing health and prosperity to every man in the colony, we now bid adieu to our editorial pen for ever."—Mr. Gilbert Robertson's legacy: *True Colonist*, December 28, 1844.

\* Speech, 18th of April, 1837.

† The legislative council adopted an address, which expressed a warm admiration of his character.

"The members immediately proceeded in a body to the great entrance of the government-house, where they were received by a military guard with presented arms; and the procession, headed by his honor the chief justice, Pedder, were conducted to the grand room, where they were received by his excellency, surrounded by the officers of his staff. The chief justice addressed his excellency in a short but very handsome manner, to the effect, that the members of the late legislative council waited upon his excellency with an address which had been voted unanimously, and which, engrossed on vellum and signed by each individual, he then held in his hand, and would proceed to read. His honor did so, in a most distinct and impressive manner. Having concluded, his excellency commenced to read his reply, in which he had proceeded but little when his feelings—the agitation of which was evidently pressing strongly upon him with each word—so overcame him, that he was unable to continue, and burst into tears. There was not a single individual present who did not enter warmly and sincerely into his excellency's feelings, and, perhaps, no governor ever received a more affectionate testimony of regard and attachment than was then elicited. The following is his excellency's reply:

"The address which you have presented to me, I most highly appreciate, every member, without exception, having expressed his sentiment in terms so acceptable to my feelings, is the most satisfactory testimony I could receive—that my endeavour to direct the important business which has devolved upon this council in a conciliatory spirit, has been successful. Whilst the utmost liberty of debate has been exercised, undeviating harmony and good feeling have prevailed.

"The testimony you have spontaneously borne to the successful result of my labours in administering the affairs of this government, complicated and embarrassing as they have often been from the peculiar character and circumstances of the colony, is most gratifying to my feelings.

"To carry into the most complete effect the great object of transportation, which has rendered the introduction of some unpopular laws absolutely necessary, to suppress the depredations of convicts illegally at large, to form a secure



of his government. He proceeded with the chief officers, civil and military, to the beach, where the 21st Fusileers awaited him: multitudes attended his progress; the wharf was crowded with spectators; a hundred boats surrounded the government barge, and followed him to the ship. The vessels in the harbour were decorated, and his numerous friends gave the usual demonstrations of favour. In these feelings many did not participate: some followed him with hisses and groans; others illuminated their houses in token

and efficient penal settlement, to conciliate the aboriginal inhabitants, and to protect the settlers from their fatal attacks, to encourage pastoral and mercantile pursuits, to foster religion and morals, and to provide for the education of the poor, to maintain the laws of the country, and firmly to carry into effect the regulations of the government, have all been measures which have required the most laborious supervision.

\* Yet all these have been far less embarrassing than the anxious duty which devolved upon me for so many years of apportioning the lands of the crown amongst the settlers according to their respective means of improving them, and of impartially considering their claims in the disposal of assigned servants, for these were measures which affecting directly every settler's personal interests, almost daily brought his personal feelings into action in approving or condemning the policy of government.

\* In all these matters, I have felt the full weight of responsibility in contending with the extreme practical difficulties which have almost daily presented themselves, and which I never could have successfully withstood, but from the support I have uniformly received, not only from the members of the executive and legislative council, and from the officers of the government, to whom I am greatly indebted, but from the great mass of the community, to whom through you, on your return to your several districts, I request I may be permitted to convey my most grateful acknowledgements, and sincere thanks, requesting them to be assured, that I shall ever most highly appreciate the encouragement I have ever received at their hands, the strength which my government has derived from it, and the gratifying testimonies which I have received of their feelings towards myself personally, since I received the intelligence of his Majesty's intention to appoint my successor.

\* None but those who have had personal experience of the extreme delicacy of adjusting conflicting interests—of maintaining the just rights of the crown without encroaching upon the reasonable expectations of the people, can fully appreciate the value and importance of the support of the community as a body. If my labours have been great, so has been my reward. I have witnessed the most extraordinary rise, perhaps ever known within so short a period, in the value of property. The foundation is now firmly laid, enterprise and the desire to improve have full scope, and their results will be, I anticipate, increasingly developed every year.

\* Having presided over the legislative council from the period of its constitution, now ten years ago, I cannot take my leave of you without the most lively emotions, and whilst I am most deeply sensible of your invariable kindness and forbearance towards myself, permit me to request for my successor a continuance of that support which you have so cheerfully and zealously during so long a period extended to me.

\* Gentlemen, with the most sincere wishes for your future prosperity and happiness, I now bid you farewell.

\* GEORGE ARTHUR.

\* *To the Members of the Legislative Council.*"

—*Tasmanian*, August 19, 1836.

of joy. Some fell into the hands of the police, overpowered by their excessive gladness. Having gone through the ceremony of embarkation he returned to his office, and spent the night in completing his last labors. Adverse winds detained the vessel, and he passed the Sabbath in sight of that country where his name can never be forgotten; and where monuments more durable than brass, formed by his care, will remain to the end of time.

The manners of Arthur were formal; his tastes moral; his temper vindictive. He approved the right, and usually followed it; but his resolution once taken, he did not hesitate. He devoted all who opposed him: and those whom he could not conciliate, if possible, he bore down. The sentiment of religion, however, did sometimes triumph over his antipathies. His contest with Mr. Gellibrand, the barrister, continued many years; but they met at the sacrament shortly before their final separation. Arthur approached the seat where Gellibrand was sitting, and offered his hand. This being misunderstood, a prayer-book was tendered him: he then explained, that before they joined in the solemnity which had brought them there, he was anxious for reconciliation.

Such only who know little of man, and of those conflicting passions which attain alternate ascendancy in the human breast, will survey with distrust a scene like this. In the presence of the Almighty the loftiest mind may bend without meanness, and recognise the moral grandeur of a forgiving spirit.

A few months after the departure of Arthur, Mr. Joseph Tice Gellibrand lost his life. He visited Port Phillip, a place which long engaged his thoughts: in company with Mr. Hesse, a barrister, he set out to explore the interior; they missed their way. The guide who attended them was convinced of danger: he could not prevail on them to change their route, and he returned alone. Their long absence occasioned anxiety, and parties of their friends attempted to track them: they found that when in company with the guide they had crossed the Byron, instead of the Leigh, their intended course; they then travelled on about fifteen miles by the river side, and over a plain, and entered a wood soon impervious to horsemen: then their track was lost. For several years, efforts were made to solve the mystery of their fate. In 1844, the natives directed Mr. Allen, a gentleman of credit, to a spot where they stated a white man had been murdered: there he discovered human

bones, but no evidence by which identity could be established. Beyond this, nothing certain is known.

On his return to Great Britain, Arthur was received with favour by the ministers. He was created a knight, and appointed governor of Upper Canada : afterwards, he obtained a similar office in India.

Sir George Arthur cannot be withdrawn from the rank of eminent functionaries ; and his administration, on the whole, is entitled to more than respectful remembrance.



# **HISTORY OF TASMANIA.**



**FROM 1836 TO 1843.**



## FROM 1836 TO 1843.

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### SECTION I.

BEFORE the departure of Colonel Arthur, the brigade-major of the military district, Lieutenant-colonel Kenneth Snodgrass, C.B., arrived at Hobart Town from Sydney. He was sworn in as acting Lieutenant-governor on the 31st October, 1836. He had attained a military reputation in the Burmese war, of which he published a narrative. He was cordially received, and his temporary relations were too brief to leave any impression on colonial affairs.

The appointment of Sir John Franklin, Captain in the Royal Navy, and Knight of the Guelphic Order of Hanover, was announced by Sir George Grey in the House of Commons, April 13th, 1836. He was presented to the king by Lord Glenelg, on the 20th August, and embarked in the *Fairlie*, on the 27th. He was accompanied by Captain Maconochie, late secretary of the Geographical Society, and one of the professors of the London University; and by the Rev. William Hutchins, in whose favour Van Diemen's Land was erected into an archdeaconry. Sir John Franklin assumed the government on the 6th January, 1837.

The nomination of Franklin was acceptable to the colony. His profession, his career, and character, were considered auspicious. He had accompanied the illustrious Flinders on his voyage of discovery, and was at Sydney when the first party left that port to colonise this island. During thirty-four years, he had himself obtained great nautical renown: his intrepidity, his sufferings, his humanity and piety, had been often the theme of popular admiration, and were not unknown in Tasmania. The colonists were resolved to give him an appropriate welcome. He saw with astonishment the signs of wealth and activity, in a country which he only remembered as a wilderness. Crowds followed him with acclama-



tions : addresses, couched in language of eulogy and hope, poured in from every district. The progress of the governor through the colony was attended with feasting, balls, and public festivities. On his entrance into Launceston, he was escorted by three hundred horsemen and seventy carriages : the streets were thronged ; the windows were crowded by fair spectators, who shared the general enthusiasm. The private settlers received him with unsparing hospitality : he was both oppressed and delighted with the signs of popular joy. The hearty frankness of his replies was contrasted with the official coldness ascribed to his predecessor. He repeatedly reminded the colonists that, although ambitious of their favour, the duties of his station would probably oblige him to disappoint their desires. He assured them that he came among them without prejudice, and determined to " see with his own eyes, hear with his own ears, and judge with his own judgment."

On his return to the seat of government, Franklin addressed a despatch to Lord Glenelg, containing an exulting description of his tour. He had seen the colony in its holiday dress, and all parties had mingled their acclamations. He depicted, with expressions of astonishment, the easy circumstances and general intelligence of the settlers, and especially noticed their exertions to acquire religious and educational advantages. His lordship replied that this report confirmed his estimate of Franklin's predecessor. In his first minute to the legislative council, Franklin pronounced an eulogium on Arthur's services, and laid on the table a despatch of the secretary of state, of similar import.

The admirers of the late governor were gratified by these flattering tributes ; but they were not without risk to Franklin's general popularity. The party of Arthur was dreaded by the opposition, and was still powerful ; nor was it difficult to perceive that past animosities had lost but little of their vigour. Captain John Montagu had been recently confirmed as colonial secretary, and Captain Matthew Forster held the office of chief police magistrate. Most details of government were transacted in their offices. They were both clever men : they exercised considerable local influence, especially Montagu, in connection with the Derwent Bank. Their advice Franklin could not easily evade. Thus the policy of their distinguished relative survived in his nephews. Franklin was scarcely seated, when the press professed to discover that he was an instrument in the hands of the " Arthur faction."

Arthur, anxious for the welfare of his relatives and friends, commended them to the confidence of his successor. Many unsettled claims were left to his final decision. Colonists aggrieved by the late governor, when their appeals for redress to Franklin (not unfrequently inequitable) were unavailing, fancied that their former antagonists still turned the course of justice. The sanguine hopes excited by an auspicious name, gradually gave way, and the governor was assailed with remonstrances, which enlarged into reproaches by a rapid growth. A design was commonly imputed to the advisers of Franklin to render him unpopular, and thus the late ruler an object of regret; they slighted, however, the reproaches they had been accustomed to despise.

"The lingering traces" of discord were distressing to Franklin. In answer to an address from Richmond, which deplored the absence, and invoked the restoration, of social peace, he expressed his anxiety with touching ardour:—"With my whole heart I agree with you. Let us be divided then, if we cannot be united in political sentiments, yet knit together as friends and neighbours in everything beside. Let us differ where honest men may differ; and let us agree, not in undervaluing the points of political dissent, but in respecting the motives which may produce it; in cherishing domestic virtues, which will be found to characterise individuals of every party, and in making the generous sacrifice of private feelings for the general good, rather than aggravating the importance of grievances, which must render such forbearance impossible." These sentiments, not less charming for their amiable spirit than happy in expression, are important as maxims of political life, and they depict the main difficulty of the governor's position.

To promote the harmony of parties, Franklin considerably added to the list of magistrates: persons, discountenanced by Arthur, were placed on a level with their late antagonists. But selection is difficult where many are candidates. Free settlers of all sorts were equally eligible by their wealth, and made equal pretensions. Thus when the list was issued, it was received with mockery and laughter; and, said the scorers, all the "coat tails,"—rarely worn, except by free men—contain a commission. They were certainly numerous—large, in proportion to the emigrant adult population; but who can extinguish the flames of envy without kindling contempt! To further his conciliating policy, Franklin nominated to his council Mr. W. E. Lawrence, a gentleman of wealth and intelligence, and great



liberality of opinion. An early disagreement with Arthur had been aggravated by frequent irritation, and excluded Mr. Lawrence from a station, for which his qualifications were many.

But the government was disquieted by internal discord. Judge Montagu and the attorney-general had quarrelled in open court: Mr. Stephen had eaten sandwiches in the judge's presence, so it was said, and had delayed a trial. Montagu assailed him with a virulence scarcely tolerated even at the bar. Without awaiting his defence, the judge poured forth a torrent of reproof, among which the following: "No, sir; in your official capacity I shall always treat you with the courtesy and respect due to you. Were you elsewhere, I should treat you, after your conduct, with less courtesy than a dog."

Such quarrels were little regarded by Arthur; but when the authority fell into the hands of Franklin, the altercations of parties were less disguised, and the moral weight of government seriously injured. The attorney-general resigned his appointment; and shortly after, as a judge, obtained the object of professional ambition. Mr. Stephen, while the law officer of the crown, was said to display eminent legislative skill: his drafts often elicited considerable opposition, and he did not disdain to explain the principles he embodied in his measures, whenever they were seriously questioned by the public.

Before his removal from the colony, Mr. Alfred Stephen promoted a petition to the crown, for the concession of British institutions: an instance remarkable for the unanimity of the colonists, and the friendly countenance of the governor. It was almost universally signed (June, 1838); but, like its predecessors, unavailing.

The opinions adopted by Captain Maconochie on convict discipline, and which placed him in opposition to every colonial party, rendered his dismissal necessary; but it deprived the governor of a long cherished friend, and who, in happier circumstances, might have greatly facilitated his affairs. Thus Franklin stood alone; and the nephews of Arthur absorbed the influence, which subordinate officers rarely acquire, without rendering their chief contemptible.

Many efforts had been made to obtain admission to the public during the sittings of the legislature. The members had been long released from the oath of secrecy, and their votes, and even the substance of their speeches, were occasionally known. Franklin determined to throw open the



doors of the council chamber (1837), and expressed a conviction that the freedom of public discussion, founded on accurate knowledge, would confirm the measures, or correct the wanderings of the legislature. At the first sittings of the council, the novelty of the privilege secured an attendance at the debates ; but the desultory and heavy discussions soon tired the patience, and members pointed with exultation or regret to those deserted benches, where patriots had vowed to watch the course of legislation.

The principle of open debate is, however, invaluable : reporters were there, and the public could read in an instant what it required hours to gather. Nor is the exercise of a privilege necessary to establish its worth : the title to be present belonged to the whole people, and Britons esteem and acknowledge a real treasure in a right. An open threshold, although rarely darkened by guests, is the pledge that all is honest within.

#### SECTION II.

To compose ecclesiastical claims has ever been among the most difficult functions of the civil government. Franklin found the relations of the churches unsettled, and among his earliest measures was one to define the objects, and fix the amount of clerical pay.

The chaplains appointed for the Australian colonies by the crown, had been always ministers of the church of England : the greater part of the population, mostly prisoners of the crown or their descendants, were members of the Anglican church. Thus expediency corroborated the exclusive claims of the clergy to the spiritual oversight of the colonies. It was, however, impossible to obtain qualified clergymen of the English church, in sufficient numbers to supply the penal establishments. Thus the government employed ministers of other denominations, chiefly the wesleyan, as religious instructors ; sometimes with the express sanction of the chaplains. In the country, catechists were appointed with the concurrence of Archdeacon Scott, who, however, were often members of dissenting communions.

At this time, the doctrinal views of the various denomina-

tions were in general harmony: the standards of the church of Scotland, the declaration of the congregationalists, and the articles of the church of England, are of the same general import. The wesleyans, and the society of friends, entertain some opinions at variance with these symbols; but in their ordinary teaching, all parties employed nearly the same theological and devotional terms. Their views of church government, and of ritual observances, were the chief points of dissonance; but in scattered settlements of recent formation these distinctions were rather matters of recollection than of practice. There were no diocesan, no presbyterial or other courts. In the towns the denominations maintained their exclusive forms and separate teachers; but controversial divinity was excluded by common consent from rural ministrations; and wherever christian ministers presented themselves in this character they were welcome, and in any other almost unknown. It was not possible, or perhaps desirable, that this interchange should last: experience has shown that organisation is requisite to permanent vigour; but when bodies of professors ranged under their separate banners, their general sympathies were lost in the corporation spirit.

Unless as temporary agents in the instruction of prisoners, the government did not recognise the title of any, except the Anglican clergy, to the patronage of the crown. Others were favored with sites for their churches, and in some instances with assistance in rearing them; but at that time land was granted to private persons, and loans of mechanics were allowed to assist the settler in building his dwelling.

The emigration of respectable families from Scotland produced an important revolution: they, it is alleged, constituted one half of the free settlers in the country districts. Their attachment to that form of christianity which is professed in North Britain, was not weakened by their migration.

The Rev. A. Macarthur, ordained a missionary minister by the united associate synod of Scotland, arrived in Van Diemen's Land in 1823: the first presbyterian clergyman established in this hemisphere. The innumerable sections of presbyterians differ with each other, chiefly on grounds almost unintelligible out of Scotland.

The arrival of John Dunmore Lang, D. D., in New South Wales (1823), was an important event in the ecclesiastical history of the Australian colonies. Although an ordained



minister of the church of Scotland, he received no assistance or special authorisation ; but, according to his account, "set forth a solitary friendless wanderer." The different sects of presbyterians welcomed him at Port Jackson, and the foundation of a church was immediately laid. His supporters, contrary to his advice, applied to Sir Thomas Brisbane for pecuniary aid, such as the catholics had received already. The applicants were rejected with reproach, and were told that it would be time enough to ask assistance, when they should prove themselves equally deserving. To this Lang retorted, that Scotsmen did not ask toleration ; and, unless degenerate, would vindicate those rights, the swords of their fathers had won. These warlike papers were published in London, and Lord Bathurst spontaneously expressed his regret "that his excellency had put to their probation ministers of the church of Scotland in the colony—the established church of one of the most enlightened and virtuous portions of the empire ;"\* The governor was ordered to pay £300 per annum to Dr. Lang, as a stipend.

Dr. Lang, thus successful, henceforth disputed the preferable claim of the Anglican church in every form : he celebrated marriages by bans, when he was refused a governor's license ; and when the registration act, of 1825, required every pastor to certify his ecclesiastical acts to the parish minister, to be inserted in a general register, he questioned the existence of a parish, and the ordinance was upset. The idea of an established clergy was thus violently shaken, and Lang naturally detested as an ambitious innovator.

The weight of the ecclesiastical establishments in the penal colonies had been very considerable. The churches, some of great cost, had been built wholly at the expense of the treasury ; the inferior officers were also paid or provided by the government.† The principal chaplains were members of the legislative councils, and were consulted on most measures relative to religion.

Mr. Commissioner Bigge recommended the crown to reserve lands for the endowment of the church ; and in 1824, a "church and school corporation" was created in New South Wales : one-seventh of the crown lands were granted for their use ; for the endowment of a bishopric,

\* *Lang's History of New South Wales*, vol. ii. p. 258.

† An organist of St. John's Church, Launceston, refused to play, and was sentenced to punishment ; but was restored by the intercession of the clergyman.



parochial ministers, and schools. The expense of managing this corporation exceeded its revenue. Dr. Lang visited England, and protested against its object and enormous cost. By the recommendation of Archdeacon Scott,\* it is said, all these lands, excepting certain glebes, were resumed by the crown, and the church and school corporation was dissolved.

The colonial governors never questioned the status of the episcopal clergy as the established church. A presbyterian congregation in New South Wales, who had sustained their form of worship without a minister for many years, applied, through Dr. Lang, for assistance in supporting a clergyman. They were informed that the governor rejoiced in the liberality they had already displayed, and did not doubt its future sufficiency! At Bothwell, where a great majority of presbyterians resided, Arthur stipulated that the church erected at their solicitation, should be given up whenever a minister of the "established church" might arrive in the district. Even money to assist the erection of St. Andrew's Church, Hobart Town, was, at first, lent on the bond of Messrs. Hopkins and John Walker, lest the secretary of state should demand its repayment.

The agitation of ecclesiastical rights was discouraged by the government, and the social dependence of the settlers silenced the murmurings of discontent. Arthur, little inclined to weaken the exclusive claim of the Anglican church, gave but £100 per annum to two ministers of the presbyterian church stationed in the interior, and £150 to the minister at Hobart Town; and when the presbyterians of Launceston applied for similar help, the refusal was decided and cold: they were informed that, in the opinion of the governor, the episcopal church was fully sufficient for the wants of the town. They were not, however, discouraged, and applied to Dr. Lang, who soon sent them a minister—the Rev. J. Anderson.

The title of the English clergy to exclusive support, became a question of great imperial moment. The discontent in Canada led to a canvas of the subject in the British parliament, and it was avowed by Sir George Murray,† the

\* *Macarthur's New South Wales.*

† "Sir George Murray maintained that this country was bound to provide the means of religious instruction for the people of our colonies: at the same time he begged to say, that so far from approving the maintenance of any exclusive system in the colonies, he thought any such system there, *bad and dangerous*. He was of opinion that parties of all religious persuasions were equally entitled

secretary of state, that the principle of a dominant church was both pernicious and untenable. He recommended the practice of sharing fairly among all churches the revenues appropriated to religion. These views were soon published in the Australian papers: they gave a new aspect to the relations of ecclesiastics, and opened a way for a definite arrangement.

On receiving an order of the king in council, dissolving the church and school corporation, Governor Bourke addressed a despatch to the secretary of state.\* He observed, the time was come to settle the public policy in reference to religion, and that to erect a dominant church would produce incessant hostilities, and that without a chance of its permanence; he therefore proposed to give support to the three grand divisions of christians—of the churches of England, Scotland, and Rome; to assist them in erecting their places of worship, and paying their ministers, yet at a rate which would leave their clergy partly dependent on voluntary contributions. He recommended the appointment of an English bishop and a Scots' presbytery. Against this course, he remarked, it might be objected that an equitable claim was raised in behalf of other bodies of christians, and even jews; "this, however, was an objection to the theory, not likely to interfere with the practical benefits of the plan."

The opinions of Bourke were favorable to the voluntary principle†—the only policy which allowed a proper reverence for the rights of all; but he thought the special circumstances of New South Wales demanded the neglect of minor inequalities. Notwithstanding, in the church act of that colony, as it actually passed, all christian sections were entitled to participate in the public bounty.

Two years had elapsed from the date of the despatch, when Lord Glenelg expressed his concurrence with the outlines drafted by Bourke, and admitted that to select one church for endowment, "even were it advisable in other respects, would

to support, and he deprecated the exclusive establishment there of any one church above all others."—*Parliamentary Debate*, July 13, 1832.

\* 30th September, 1833.

† "I would also earnestly recommend that provision be made for the schools, in which the children of persons of different religious tenets may be instructed without distinction, on the plan now adopted in Ireland. The means of education being secured, I shall feel disposed to leave it to the voluntary contribution of the inhabitants to provide for churches and clergy. To aid all where the creeds are various seems impossible, and a partial distribution of the public funds appears nearly allied to injustice."—*Despatch of Sir Richard Bourke, respecting land in Port Phillip*, October, 1835.



not be long tolerated.”\* The moderator of the synod of Australia addressed his lordship (Glenelg), to express their “unmingled gratitude and joy” at the happy settlement of their affairs; and requested, that should the heads of the other churches be seated in either council, the same honor might be conferred on a delegate from their own. Lord Glenelg replied that it was not intended to grant to ecclesiastics a seat in council. The publication of these despatches created considerable interest in Van Diemen’s Land: the presbyterians especially renewed their claims, and asserted the parity of their status with the sister establishment.

Arthur, on assembling the council of Van Diemen’s Land, presented these documents, and observed that in a remarkable degree they accorded both with his opinions and his suggestions. A day was devoted to the discussion of the subject, when all the unofficial members of the council concurred in commending their adoption as the basis of Tasmanian legislation. Thus, in the spirit of this resolution, the salaries of the presbyterian ministers were slightly augmented; the wesleyans gratified with £400: considerable sums were set apart for the erection of churches. £200 were offered to the Rev. Frederick Miller; but the principles of the independents reject stipends from the state: £500 were, however, lent for the liquidation of the chapel debt—in reality a donation. The congregation were not restrained by the noble example of their minister; and reconciled their consciences to an evasion of their creed, by excuses never long wanting to those who diligently seek them.

These measures were generally approved, and Arthur calculated that the more equal “distribution of the revenue would suppress every factitious cause of discontent.” He stated that “religious discussion and hostility had been little known, or rather altogether unknown;” and he expressed a hope that the visit of Bishop Broughton, then expected, would “offer an opportunity sought for by all denominations, to manifest their consciousness that there is in our common christianity a bond of union.”†

The crown erected the Australian colonies into a see (1836). Dr. Broughton was consecrated first bishop: the event was considered auspicious to the episcopal church. Addresses from its members welcomed the prelate during his first visitation, and efforts were made to secure the possession of ground still destitute of clerical culture.

\* Despatch, November, 1835.

† Minute, 1836.



The proclamation of a see within the colonies, erected by letters patent from the crown, seemed to assert the supremacy of the Anglican communion. The members of the Scottish church, however, questioned the legality of special distinction, and maintained that the grant either of money or power to one body, simultaneously quickened a title in the other to similar privileges.

This view was first formally announced by Mr. James Thomson, in letters published in the *True Colonist* (1835), and afterwards in a pamphlet, entitled, *Remarks on the Status of the Presbyterian Church in the British Colonies*. This work was accepted by Scottish colonists, as a just exposition of their national rights, and the church of Scotland affixed to the argument "the broad seal of approbation." \* The argument rested mainly on the treaty of union, which provides that, in default of express stipulations to the contrary, "there shall be a communication of all rights and privileges, and advantages." In the spirit of this clause, the presbyterian ministers stationed in India were recognised and placed by law under the presbytery of Edinburgh, in the same act which authorised diocesan episcopacy. Thus again the legislature had implied a parity of rights in the foreign port act, which required the consul to appropriate funds for the erection of churches, and on the same terms, when demanded by the members of either establishment. The writer appealed, with great ardour and effect, to the national history of his countrymen: their courage in fight, their patience in suffering, and their sagacity in council. He inferred, alike from their piety and their patriotism—their pride as Scotchmen, and their earnestness as christians—that when they sanctioned the legislative union, the dignity of the church, the first object of their affections, would be the last they would be likely to compromise or to forget. But the actual position of the colonial presbyterians rendered the argument for the present unavailing.

It was obvious, that whatever ecclesiastical arrangements were guaranteed by the treaty of union, pertained only to the national church. The clergy of the establishment would have been even less disposed than the crown to allow a seceding ministry to share in their legal heritage. Yet the church at Hobart Town, founded by a seceder, was under his care. The government sometimes called the congregation Scotch, and at others presbyterian; but never an established

\* *Rev. J. Lillie's Letter to Rev. W. Hutchins*, p. 13.

At this stage, a counter proclamation, hastily prepared, was brought by a messenger from the governor, and the convocation dissolved.

However conclusive this reasoning to Scotchmen, the Anglicans were little disposed to admit its force. They asserted that the faith of the sovereign was the imperial faith, and that it was within the competence of the British legislature to set up an exclusive establishment of their clergy. The usual argument against the universal equality of the Scots' national church, was the fact that the laws of England, and not the laws of Scotland, were binding in the colonies.\* To this it was replied, that treaties, on which the imperial legislative power was founded, were the limits of its action; and that the ascendancy of English law in the colonies of Australia depended on a parliamentary enactment passed by the representatives of Scotland; subject, however, to the restrictions of the treaties in virtue of which Scotchmen were contented to sit on the benches of Saint Stephen.†

Archdeacon Hutchins denied that either treaty or law prohibited a preferable claim, and remarked that "opening the door to two co-existing establishments would shortly admit others, and thus prepare for the destruction of all."

It was not affirmed by the Scotch, that they possessed an inherent right to the privileges of an establishment: *both*, or *neither*, was their motto. The colony, they affirmed, was not English nor Scotch, but British. It was the opinion of lawyers, however, that beyond the seas the churches of England and Scotland depended for their rights on parliamentary or colonial enactment; and that whenever obscure, a declaratory statute must fix the sense of a treaty, and

\* "I cannot see why the national legislature may not determine what will be the established church of the colony, with just as much propriety as it determines what shall be the prevailing law. A separate and integral part of an empire at large, can have no right to do this. As soon might a number of Cornish men insist upon their right to have introduced the peculiar laws and customs by which the mining operations of the county are regulated."—*Letter of Archdeacon Hutchins to Rev. J. Lillie.*

† "But let me tell you, Scotland is not asleep to her rights and privileges: she is still the same independent dame she ever was. . . . The instant you touch her religion, or presume to put indignity or insult upon her venerable church, either at home or abroad—a church from whom she has received so many benefits; and who has grown old and grey headed in her service—her proud and independent spirit rises. She appeals to her *marriage contract*—her articles of union; and if I mistake her not, she will sooner retire to her mountain freedom, and her 'single blessedness,' than consent to have them violated. *Nemo me impune lacesset*, is still Scotland's motto."—*Letter of Rev. J. Lillie to the Rev. W. Hutchins*, p. 18.



decide whether an exclusive endowment of any class of clergymen was beyond the competence of imperial or local law.

The passing of an act in New South Wales, granting stipends in proportion to the adherents, from £100 to £200, and the prospect of a similar act in Van Diemen's Land, led to urgent applications for ministers by the heads of various churches. Bishop Broughton published a strong appeal to the numerous unbeneficed clergymen in Great Britain, to whom he represented these colonies as a field of great promise. He stated that the obtaining ministers, "was a matter of life and death."

The son of the illustrious Coleridge exerted himself on behalf of the church of England, and based his chief appeal on the inadequacy of the penal laws at home; the misery endured by the poor; the numerous crimes originated by the refinement of society; and the principle of compensation, which bound the English people to supply in colonies not less instruction than they must have furnished in gaols.\*

A fund was contributed, though of no great amount; but the Society for Promoting Christian Knowledge supplemented the colonial pay, which was found inadequate to secure men of character and education. Compared with the ground to be occupied, the church of Scotland was more successful in candidates for this important sphere.

Dr. Lang lost no time in proceeding to Great Britain, and obtained a numerous band of clergymen and schoolmasters, whose passage was defrayed by the colonies.

The Rev. Thomas Dugal, and other ministers of the synod of Ulster, expressed their willingness to undertake colonial charges. Lord Glenelg enquired of Dr. M'Farlane, the convener of the general assembly's committees, whether their appointment would be sanctioned by the church of Scotland. To this he replied, that they might be "taken under charge of presbyteries in connexion with their church, on their adhibiting the subscription, and coming under the engagements required by their church, but no longer."

\* *An Appeal to the Friends of the Church of England, in behalf of their Brethren.*

The extreme difficulty may be inferred from the following :—"Fully agreeing with you as to the necessity of such an appointment (at Norfolk Island), I have used every endeavour to find a clergyman of the church of England, qualified for the office; but I regret to inform you that I have not been successful, and the archdeacon has been equally unfortunate. I have, therefore, felt it my duty to institute inquiries in other quarters."—*Lord Glenelg, 1835.*



The admission of the Roman catholic body to equal privileges, was defended as a measure of policy. The national clergy appealed to a legal recognition ; but, until a recent period, the catholic worship had by statesmen been both tolerated and abjured. The penal institutions required catholic instructors, to teach a proportion of prisoners, amounting to one-third of the whole. The appointment of the Rev. Dr. Ullathorne as vicar-general, led to increasing concessions of money and patronage. The zeal and intelligence of that clergyman was conspicuous in the management of the prisoner class. On their arrival, they were submitted to a course of moral and religious training, and from his testimony it appears, that the effect was long visible, and led to a marked decrease of crime.\* The patronage of the crown was more freely granted to the Roman catholics than the presbyterians, until the general policy of the state was revised. When other non-national communions were passed over, the number of the catholics, and their subordination to a governing body, were the reasons assigned for their special countenance.

The protestant bishop, Dr. Broughton, was preceded by the arrival of Dr. Polding, the prelate of the Roman church. An incident occurred, which occasioned great delight to his adherents : he landed at Hobart Town, and the governor sent down his carriage to the beach to conduct him to the government-house. At a meeting of the catholic body, resolutions, to which Messrs. Rowe and Hackett were the speakers, voted a present of plate, to express their gratitude for Arthur's zeal in their cause, and his courtesy to their bishop.

Beside the leading denominations, who obtained the pay of the state, the wesleyans possessed the great pre-requisite, a governing body. By a singular oversight, they permitted the bounty of the treasury to descend to them in an annual donation, instead of a stipend regulated by the general law. Their co-religionists in New South Wales now enjoy an endowment, of which nothing can deprive them, but the joint consent of the crown and the people.

The preliminaries being settled, a bill was introduced by Franklin, and passed into law (November, 1837). It authorised the governor to grant £300 to any congregation, to provide a parsonage, and £700 for the erection of a church, or a sum not greater than the amount subscribed by the

\* *Evidence before the House of Commons, 1837.*

people. It directed the issue of a salary of £200 to any minister of the three churches, whose congregation should be equal to eighty adults, or in towns to two hundred. The discussion of this bill created considerable controversy: the ministers of the church of England were especially opposed to its latitudinarian aspect, and Archdeacon Hutchins represented that the principle was wholly untenable on christian grounds, but cast the responsibility of a permanent establishment of the papal faith on the members of the Scotch communion. Their protest against the bill, and a renunciation of their claims would, he affirmed, at once fix the establishment principle. Had the proportionate numbers of the two churches been reversed, he believed that, rather than endow the Romish priesthood, the Anglican communion would abandon all further competition for the favours of the state. To this the minister of St. Andrew's retorted, that the responsibility lay wholly with the state; and that, if sincere, the English clergy might, by withdrawing their own, remove the pretensions of all.

The archdeacon, and his clergy\* of the English church, united in a petition, presented by the chief justice, against the provisions of the act. They complained that its principles were a compromise of truth, since they not only assumed that the religious "sentiments of the Roman catholics are equally entitled with those of the protestant to the support of government, but that every variety of religious sentiments, which is to be met with amongst the various denominations of christians, is entitled to support, without any reference whatever to the conformity of those sentiments to the word of God."

The law was scarcely in action, when one of its clauses was found to operate against its professed design. A church and a house were required before a minister could be salaried; but the settlement of a clergyman was in fact a necessary preliminary to the erection of a church. An amendment gave the governor a power to issue a salary on a requisition, on condition of a small local subscription (1838). But this relaxation proved mischievous in another direction: the salary was paid, but the church was not erected. This required a third law, and it was therefore enacted, that if a religious edifice were not in progress within six months from the issue of a stipend, payment should be discontinued (1840).

\* Excepting Dr. Browne and Rev. R. R. Davies.



The colony, on the passing of the church act, was an open field. The first clerical candidate, because he was such, engrossed a large proportion of the available signatures. The people, generally anxious for some form of worship, both as a moral agency and from its tendency to raise the respectability of a township, gave their names freely as *bonâ fide* members of either protestant church. The inevitable result was, an eager competition by the more zealous members of the rival communions. The meaning of *bonâ fide* membership of this or that church, was brought into considerable debate. The Anglican clergy insisted on the census; the Scotch on the right of every man to make himself a member for the purposes of the act, whatever his hereditary or mental creed. These different views led to serious discord: the analysis of names appended to various applications imputed all the errors, informalities, and even corruption supposed to attach to popular elections. Those who had never thought much on religion, gave with facility and then retracted their adhesion: they virtually changed not only their minister but their creed. The opposite parties represented each other in terms full of reproach and bitterness; imputations of sectarianism, intrusion, kidnapping, were the common forms of recrimination. It would be useless to relate examples now before the writer, in colours painted by the passions of the conflict. It is the nature of religious controversy to throw on the surface all the malignant feelings that cloud the reputation of gentler spirits, in whom the real virtues of a communion dwell; but the lesson is worth remembrance—that of all forms of clerical institution, none realise less the idea of loving-kindness than that based on universal suffrage.

The social effects of this competition were lamentable: neighbours were divided, who had often worshipped at the same altar; religious emulation sprung up in every locality: an attempt to possess the ground, led to the marching and counter-marching of hostile forces. The advent of an eminent clergyman on a township was reported to the headquarters of his antagonists. In one place the moderator had appeared, in another the archdeacon: it was thus the more zealous partisans of either exasperated their antipathies. Again, the church act did not tie the laity to either their ministers or their creeds: thus a dissatisfied people might easily raise the preliminaries for a second or a third clergyman, and leave their late pastors to their salaries and their solitude.



Demands on the treasury for the erection of churches and support of the clergy perplexed the executive. The ordinary revenue showed symptoms of declension, and the council passed a bill which declared that new imposts were impracticable, and vested a discretionary power in the government to refuse assistance to any new undertaking (1841). Thus the principle of the church act was subverted, and the grant of money for purposes of religion confided solely to the impartiality of the administration.

The voluntary efforts of the different sects largely supplemented the legal provision. Churches of respectable architectural pretensions were rapidly multiplied. The wesleyans, independents, and baptists raised buildings for worship in the more important townships. Many private persons expended large sums for these purposes.

The dependence of the clergy on the public treasury was from the first considered a temporary expedient. Some officers of the government favored the voluntary principle, others looked forward to endowment of the churches with lands. Bishop Broughton, anticipating the establishment of an elective legislature in New South Wales, made an effort to secure a preliminary territorial endowment. In presenting his petition (1839), the archbishop of Canterbury insisted that, however impracticable in Canada, such a measure could encounter no fair objection in a colony where so large a proportion were members of the English church. While he admitted the impartial liberality of the government, he complained that a principle had been adopted "by which persons of all denominations were placed on the same footing." The home government exhibited no disposition to accede to this proposition.

A provision, however, resting on an annual vote, was obviously uncertain; and it became necessary to declare the terms on which it was enjoyed. The minister of the day notified to the officers of the Anglican and Scotch churches that incomes dependent on variable resources and mutable opinions were liable to casualties. He therefore warned them that, beyond the fair influence of the crown and the equitable claims of existing incumbents, no guarantee could be given.\* During a financial crisis these views were reiterated by one governor, who reminded the council that the warning of his lordship was likely to be realised; but he added his conviction that to render the

\* Lord J. Russell's despatch, 31st December, 1839.

churches independent of the state would not only relieve the local treasury, but raise the clergy to a higher level.\*

Archdeacon Hutchins died suddenly (June, 1841). His estimable private character and clerical zeal endeared his memory to many. The Hutchins' grammar-school was erected as an appropriate memorial of his worth. The vacancy occasioned by his demise suggested the establishment of the diocese of Tasmania. This was founded by letters patent, 27th of August, 1842, when Dr. Francis Russel Nixon was constituted first bishop. His lordship landed June, 1843, and on 23rd of that month opened his ministry in the words of St. Paul—"I am determined to know nothing among you save Jesus Christ." The venerable senior chaplain, on the 27th of the same month, conducted the bishop to his throne; pronouncing the words of inauguration—"I assign to thee this chair or see episcopal, and place thee in the same, in the name of our Lord and Saviour Jesus Christ." Twenty-one years before Dr. Bedford commenced his pastorate in the same place; the first permanent ecclesiastical edifice erected in Van Diemen's Land, and now known as the cathedral of St. David. Beside the endowment of the diocese made by subscriptions contributed in England, an act was passed giving the bishop a salary independent of the estimates,—a distinction not enjoyed by other clergymen.

It would not be possible to invest with general interest the details of ecclesiastical affairs. The relation of the churches with each other, involving principles of colonial government, demand a transient notice. The position of the episcopal church was anomalous and perplexing. The forms of procedure were derived from its practice, where its supremacy was established by law, and moderated by the crown. The patent of the see gave the bishop authority to try and punish delinquents; but the colonial law recognised no such tribunal as an ecclesiastical court, and patents were no further valid than they were in harmony with local acts. The governor could give ecclesiastical preferment to episcopal ministers without the sanction of the see, and maintain a clergyman in defiance of his bishop. For this ecclesiastical anomaly the growth of circumstances required a remedy, and its discussion brought the bishop into collision with a large section of his clergy, the governor, and with other denominations. The bishop withdrew the license from certain cler-

\* Finance Minute, 1845.



gymen who had been charged with serious irregularities: these offences were not investigated with the formalities usual in England; and the clergymen dismissed questioned the legality of their deposition. One appealed to the supreme court, but the judges held that the withdrawal of a license was within the province of the bishop; another obtained his salary from the treasury, the governor having refused to recognise the revocation. These proceedings were differently viewed by the episcopal clergy. Some, in the neighborhood of Hobart Town, remonstrated against the power claimed by the bishop to revoke licenses at pleasure, as inconsistent with their dignity as ministers; while, on the other side of the island, their brethren repudiated the sentiments of the remonstrants, and declared their determination to submit "to his judgments in the Lord" (1845).

The necessity for a controlling power is recognised by every church; and moral and mental aberration, such as no communion could tolerate, justified the interposition of authority. An exact conformity with the English custom required the legalisation of an ecclesiastical court; but the church act had subverted the dominant status of the English church. A court requires to subpoena witnesses, to be protected from contempt, to have its decrees carried out by the civil powers. Questions of ritual, such as baptism, would violate the religious opinions of other denominations. A clergyman, for burying an unbaptised child might be liable to deposition; a baptist might be subpoenaed to give evidence against him. Thus the jurisdiction of a court passed beyond the limits of a single denomination, and involved the liability of all, at least as witnesses. A still stronger feeling than liberty of conscience raised the opposition to this extension of ecclesiastical power. The Scotch had claimed equality with the English church: to give the legal rights of a court to the bishop was to create local disparity; while the presbyterian had no religious objection to ecclesiastical courts, the other non-prelatic communions abhorred them.

A variety of differences had created a coldness between the governor and the bishop. His lordship had demanded the control of religious instructors; he possessed no means to employ them independently of the convict department, or to protect them against its many changes. In repeating a prayer for the governor and the clergy and laity, the bishop inverted the precedence, it was alleged to degrade the governor by the transposition. Sir E. Wilmot did not enter into the views



of the bishop, who, in a charge to his clergy (1845), represented "legal help" as necessary to the protection of ecclesiastical discipline, and expressed his intention to visit Great Britain to obtain a more satisfactory arrangement. Petitions against ecclesiastical courts were forwarded by the various denominations. To these the secretary of state replied that no powers had been solicited in any way affecting others than the Anglican church; and intimating that none would be conveyed (1847).

A conference of bishops, held in Sydney (1850), have since this period proposed a liberal constitution for the Anglican communion, which awaits the sanction of the law. They demand the complete organisation of the church and its government by synods, for the arrangement of spiritual affairs; and by conventions, admitting the laity, for the management of temporalities. They contemplated the nomination of bishops by provincial synods; and affirmed that no beneficed clergyman ought to be deposed except by a sentence following judicial trial. These organic changes would, probably, greatly promote the usefulness of the episcopal church; but they seem to contemplate a total severance of its political dependence. The defect of the ecclesiastical law, which offers serious impediments to the discipline necessary, cannot but be deemed a grievance. They have arisen from those connections with the state which most denominations seem to bear with impatience.

The relations of the churches with each other have occasioned difficulties rarely of permanent importance. The dispute of the prelates of the Anglican and catholic communions is an interesting exception. It led to an adjustment of their relative rank in the colonies at large. The right of the Roman see to appoint a bishop to act in its name had been already questioned by the protestant prelate, and met with a protest from the altar. Such, under similar circumstances, had been the course of Dr. Broughton. The laws of England retained the abjuration of a foreign episcopate, and assigned the nomination of English bishops to the Queen: the catholic vicars-general had in England exercised episcopal functions; being also consecrated to the oversight of imaginary sees. This arrangement was needless where the catholic religion was salaried by the state. The ancient abjuration was retained among protestants; but its spirit had expired.

The Roman catholic prelate received an address as the

"Bishop of Hobart Town," and in reply recognised the title by adding "Hobartien" to his name. This document having fallen into the hands of the lord bishop of Tasmania, he directed a remonstrance to its author, suggesting that to claim an episcopal jurisdiction over the city was to intrude on a diocese already appropriated. The correspondence which followed entered largely into the religious differences of the parties. The papers were forwarded to the secretary of state.

A complaint arising from the miscarriage of a letter addressed to the catholic prelate as bishop of Melbourne, and a dispute in reference to precedence, in which the metropolitan of Sydney and Archbishop Polding were concerned, also called for a final adjustment of the various points at issue, so far as they could be settled by the state. The lord-lieutenant of Ireland, willing to conciliate the catholics, had recommended the secretary of state to recognise the style of their prelates. Earl Grey regretted that the lordship ordinarily pertaining to a barony had ever been conferred on colonial sees. He, however, finally arranged that the protestant archbishop of Australia should rank above the catholic archbishop, and the protestant bishops before the catholic, throughout the colonies; that the titles of "your grace" and "my lord" should be accorded indifferently to both classes of bishops, but that the government should not, in official correspondence, recognise any title complicated with the name of any city or territory within the British dominions, not authorised by letters patent from the crown. Thus neither side could claim the victory, more being allowed to the catholics than they could expect as a religious denomination; while the territorial honors were conferred exclusively on the nominees of the crown.

On the disruption of the church of Scotland the members of that church in Tasmania were involved in serious disputes, which terminated in the resignation of several of their clergy, and the formation of separate congregations. The free and residuary Assemblies opened a correspondence with the colonies, demanding to know to which part the colonial ministry adhered. The opinions of the local clergy were divided; but they concurred in a general expression of regard to the principle of church independence, and their satisfaction that they themselves enjoyed the liberty for which their brethren were obliged to contend,—thus leaving to inference their religious connection, and giving no ground to



call in question the ecclesiastical status and revenues conferred by the church act. This answer was considered by the free church evasive; and its more ardent supporters on the spot pronounced the course of the local presbytery jesuitical and dishonest. They affirmed that the church of Scotland alone was entitled, by colonial law, to state support; and that the retention of its emoluments was a virtual adherence to its principles. This discussion has been extremely fertile of controversies; but the general reader would not be likely to enjoy them.

Should the reader infer from the record of ecclesiastical divisions that the colonial temper is intolerant, he would be greatly mistaken. The laity, often even the clergy, have given evidence of their charity in friendly sympathy and generous assistance. The rights of conscience are generally understood and respected; and although many are prepared to liberate the churches from dependence on the state, but few would desire to establish invidious distinctions. The tendency of colonial life is to annul the prejudices of European society, and to yield to every man the position which may be due to his talents and virtues. This feeling is, however, found compatible with religious predilections. One hundred clergymen, many wholly sustained by the people, labor to diffuse their views of Christianity in the various districts of the island; and the emigrant population are usually in attendance on their teaching. The census is an imperfect index of actual strength, the smaller sects exerting proportionately more influence. When the claims of prescriptive authority are finally exchanged for a reliance on moral power these discrepancies will disappear, and a vast apparatus, already supplied by the state and private zeal, will bring within reach of every colonial family some form of Christian doctrine. The tendency of small communities is not unfavorable to the progress of religious denominations. The only interruption to the monotony of life is found in the church: the only association which can be readily offered to strangers is provided by the religious bond. Opinion acts with increased power where the social inequalities are slight. Thus, in the United States of America every extravagance of sentiment is tolerated; but there a man of no religion is suspected, shunned, and left to solitude.



## SECTION III.

THE education of the people, every where a question of difficulty, has been not less so in Tasmania. In the elder colony seminaries for the more opulent classes were projected at an early period. In 1825 the church and school association formed a boys' grammar-school. In '29, Dr. Lang, who had been at issue with the Anglican clergy on this as on other subjects, prevailed on the home government to authorise the loan of £5,000, to be repaid by Scotch mechanics, to be conveyed at Dr. Lang's risk, and employed in building a college. Prior to this date Dr. Lang had been concerned in the foundation of the Sydney College, of which the first stone was laid, but ecclesiastical difficulties prevented its vigorous encouragement. Vast controversies followed this revival of learning. The government voted considerable sums for the education of the settlers' sons; but the secretary of state objected to the expense, and ruled that the scholars did not belong to a class entitled to gratuitous instruction.\*

In this colony Colonel Arthur had established a superior school (1834), under the governorship of official persons. The episcopal system was to rule: the children of others were eligible, provided they submitted to catechetical instruction. The plan of the school was suggested by Dr. Broughton, and was calculated on the idea of an ecclesiastical relation to the colony, which subsequent enactments disturbed. Colonel Arthur found serious obstacles in carrying out the scheme, and he suffered it to drop. The Rev. Mr. Rusden was nominated first master; but the question of religion was again fatal to its success: the school sunk into a private establishment.

The project of Colonel Arthur was succeeded by another more extensive in its aim. Sir John Franklin addressed Dr. Arnold, of Rugby, describing the religious elements of the colony, and requesting the arrangement of details for the future management of an establishment. The great difficulty was still the ecclesiastical relations of the settlers. Dr. Arnold suggested a double chaplaincy, and a religious education rather than a merely secular system; and recommended that the head master should be permitted to take

\* Lord Glenelg's despatch, 1836.

orders. Mr. G. P. Gell, of Cambridge University, was nominated principal.

In 1840, the legislative council sanctioned the establishment of a college and the erection of buildings. The cost was variously estimated from £12,000. The Queen's school, intended to be afterwards a preparatory institution, was first formed. The denominational leaning of the college awakened considerable opposition. The Roman catholic vicar-general declared that the authorised version of the scriptures was a mutilation, and compiled to suit the views of the translators; that catholics could not pray with protestants; and urged other objections, not new to theologians, but which appeared outrageous to a colony accustomed to a liberal intercourse. The presbyterians prayed for religious equality, and other sects joined in the general aversion to an episcopal institution at the public cost.

The government, by the advice of Mr. Gell and the arch-deacon, selected New Norfolk as the college site. On the 6th of November, 1840, the foundation-stone was laid by Sir John Franklin, assisted by the members of council and heads of departments, and by Captains Ross and Crozier, of the antarctic expedition. "The college was dedicated to Christ,—intended to train up Christian youth in the faith as well as the learning of Christian gentlemen."\* The night following the ceremony, thieves overturned the foundation, and stole the inscription and the coins. But difficulties more fatal beset the institution. The pride of equality and the ambition of pre-eminence, not less than tenderness of conscience on either side, prevented a compromise. In private life concessions are found compatible with the utmost zeal, but the rivalry of churches has never been adjusted. The Queen's school, the pilot institution, was not more successful. At an expense of £1000 per annum twenty-three scholars (1843), for the most part children of government officers and opulent shopkeepers, were educated. The institution was broken up by Sir E. Wilmot; and a petition, signed by great numbers, requested the erection of a school on a more comprehensive basis. This memorial being remitted to the secretary of state, Lord Stanley replied (1846) that, when established, a proprietary school would receive from the crown whatever assistance the public resources might

\* *Sir J. Franklin's Narrative*, p. 77.



justify. The direct interference of the government in the education of the higher classes thus terminated.

The schools for the working classes were originally controlled by the government. Mr. P. A. Mulgrave, many years chairman of quarter sessions, arrived with the appointment of superintendent. This office was, however, filled by the senior chaplain; and until 1838 the schools were exclusively episcopalian. The altered policy of the crown, in reference to religion, suggested a change in the organisation of the schools. A letter, written by Sir Wm. Herschell, was transmitted by Lord John Russell, detailing the system at the Cape of Good Hope, and recommending the British and Foreign system for colonial adoption. On this plan schools were established in 1838, subject to a board nominated by the crown. It was intended to comprehend all denominations. The clergy of the Anglican church were from the first hostile to comprehension. Archdeacon Hutchins demanded that if an exclusive system were no longer attainable, a fixed sum should be divided among the different denominations, to be expended in separate schools, in proportion to the money issued under the church act. The laity in general, however, did not object to the union of all sects on the plan proposed; and to the last the British system was supported by a considerable majority, including clergymen of every sect, both protestant and catholic.

In New South Wales an attempt was made to establish the Irish system, the school books of which were sanctioned by the chief prelates of the protestant and catholic churches in Ireland. The protestant bodies were, however, averse to the exclusion of the "entire scriptures," as a discreditable compromise, and met the project with decided resistance. A committee, of which one half were episcopalians, organised under the sanction of Bishop Broughton, called on the laity to exert themselves in the "holy cause"\* of opposition to the project of Sir Richard Bourke; and they succeeded in its defeat: but when, after their victory, they met to collate their plans for further action, the meeting was abruptly terminated by Dr. Broughton, who declared that he could co-operate in no scheme not framed on the recognition of the episcopal catechism and clerical superintendence. Denominational schools were, therefore, established, and those abuses

\* Address of Committee.



arose inseparable from a plan which makes men the assessors of their own pecuniary claims.

A committee of the legislative council recommended the establishment of a general system, on the plan of Lord Stanley (1844). They alleged that by the denominational system more than half were left uneducated, and that the thinness of population, the diversity of opinion, the inferior character of the schoolmasters, and the great expense compared with the benefit secured, enforced the importance of a general and comprehensive scheme. Sir George Gipps warmly seconded these opinions, but was compelled to yield to the strength of the opposition offered by the clergy, and which no concession short of ecclesiastical control was deemed sufficient to remove. The agitation of this subject for several years has lessened none of the difficulties which attended it, and it remains a vexed question for solution by future legislators.

When the British system was established in Van Diemen's Land, masters were sent out by Lord John Russell, at the colonial cost. The schools were, however, regarded with increasing aversion by the episcopal clergy. Messrs. Lock and Fry, the last a clergyman and the author of a work on apostolical succession, visited the schools to report on them. They saw, or thought they saw, laxity, sectarianism, and partiality; and they gave the results of their enquiries in a copious publication. On the arrival of the Right Rev. Dr. Nixon this book was placed in his hands. He petitioned to be heard by counsel against the British system. His request being granted, he delivered an earnest address, in which he not only opposed the principle of the school, but reiterated many of the statements of Messrs. Lock and Fry. The Board of Education had, however, forwarded minute contradictions to these allegations; and Governor Wilmot resolved to support the schools until, on a full consideration of the adverse testimony, the secretary of state should otherwise determine (1843). Lord Stanley recommended the appointment of a commission of enquiry, which was accordingly confided to three episcopalian laymen, who acquitted the schools of most of the imputations of their former visitors. But the seals of the colonial-office had fallen into the hands of Mr. Gladstone. This event was fatal to the British system. The scholastic minister professed to examine elaborately the principles of colonial and church education, and came to the conclusion that a

scheme of biblical instruction, confided to various teachers of uncertain creeds, was too little for the churchmen, ought to be too much for the catholics, and could only be agreeable to independents. He argued that church teaching includes all that a church believes, and that its inculcation was necessary to meet the fair requirements of religious liberty. Acting on a suggestion in his despatch, Sir William Denison granted a fixed sum per head to the denominational schools, dissolved the board of education, and appointed as inspector the son of the illustrious Arnold.

#### SECTION IV.

THE claims of the churches on the treasury (1838) soon threatened the government with serious difficulties. It was resolved to increase the revenue by prohibiting colonial distillation. This trade had been often interrupted by the ordinances of the governors, but when the crown ceased to purchase wheat at a high fixed price it was deemed unfair to the farmer to restrict the local market for his produce. Duties were imposed, but they discriminated between sugar and cereals, and between colonial and imported grain. This distinction offered ample opportunity for evasion. The distillers employed these various articles at their own pleasure, and paid the lowest duty. Colonial spirits were sold as foreign; and the permits of the police-office covered the transit of quantities greater than they specified. From £5,000 to £7,000 were annually lost. The bill introduced to extinguish the trade was resisted by Mr. W. E. Lawrence and other leaders of the country party. They objected both to the suppression of a lawful trade and the injury inflicted on those who had embarked their capital. The government proposed to include in the bill a provision for the indemnity of the distillers, leaving its amount to be settled by a committee. To this Chief Justice Pedder strongly objected. The government was unwilling to entrust to a jury the claims of the distillers, as proposed by the chief justice; and, not wishing to delay the law, passed it without granting any security beyond admitting the equity of compensation.

The laxity of the distillation laws had enabled the manu-



facturers to realise double profits, by graduated duties, mostly paid under the lowest denomination. Their gains during the past could not be questioned; but Sir John Franklin was persuaded that it would be ridiculously profuse to pay an indemnity for the loss of profits rated by the success of an illicit trade. A resolution passed the council, "That any applicant having been proved, to the satisfaction of this council, to have been in the habit of distilling contrary to law, has, by such practice, destroyed any claim he might have otherwise had to compensation." To ascertain this fact a "feigned issue bill" was brought into the council. It simply referred the question of illegal distillation to the jury, without assessing their claims. The right of the distillers to compensation was, however, so indisputable, and the retrospective action of the bill so liable to objection, that it was generally opposed; and, by the dissent of the lawyers, the treasurer, with all the non-official members, rejected by the council. The attorney-general, Mr. Macdowell, impressed with its injustice, informed the governor that he could not support the bill; in this resolution he had been fortified by the strongly expressed opinions of his colleague, Mr. H. Jones, the solicitor-general, who denounced its principle as utterly iniquitous and unprecedented: but on the resignation of Mr. Macdowell, Mr. Jones accepted his place, and voted for the bill: defending his conduct by stating that he had expressed his former opinion in ignorance of its details. The public indignation was excited by this apparent perfidy, for which Mr. Jones atoned by a speedy resignation. The financial success of the suppression was mentioned by Sir John Franklin in exulting terms. The law is, however, regularly violated when grain is low. Private stills have supplied spirits more than usually deleterious; and the revenue has shown a decline. The rights of the distillers were recognised by the home government, and their unsettled claims, to the amount of £7,431, were paid in 1843.

The duty of a member of the government to support, at all events, the measures of his chief, was asserted by the secretary of state. If his conscience would not permit his acquiescence, he was expected to resign. Thus, while his oath bound him to advise, as a legislator, according to his convictions, his interest, as a public officer, compelled him to submit to the impulses of another. From this condition the chief justice was excepted,—a condition hard to



an honorable man and unfair to the colony. However plausible the reasons for distinguishing between an official duty and a conscientious belief, public morality abhors them; and Mr. Macdowell is entitled to the colonial remembrance, as one among few who have refused to support a measure because unjust.

The extensive land sales, combined with the demand for labor (1840), induced Sir John Franklin to promote emigration. The impression was general that transportation to Van Diemen's Land would cease; such had been announced as the policy of the crown. A vessel was dispatched to Adelaide, where many were suffering severe distress. The New Zealand emigrants were also dissatisfied, and many found their way to colonies where wages were high. This course was inconvenient, and excited great indignation among employers in South Australia, who prevailed on the government to pass a law intended to check emigration to Van Diemen's Land.

Sir J. Franklin disapproved of these methods of supplying the labor market, and proposed to devote £60,000 for the introduction of suitable working families from Great Britain. By many this movement was hailed with strong expressions of approbation, as a pledge of social elevation of the working classes. It was urged by Mr. Philip Smith, of Ross, that "without an extensive emigration and a stop to the introduction of convicts it was in vain to hope for permanent prosperity." Mr. Berthon, of Woodlands, asserted that "before the colony could thrive a better description of peasantry was necessary, which could never be found in the sweepings of gaols" (October, 1841). Pursuant to these views the governor authorised the settlers to select for themselves, by their own agents, the persons they required. Every considerable inhabitant received the necessary authority to ship such laborers, under indentures, at the colonial cost, it being found that useful workmen were indisposed to emigrate except to a master already known. The greater part of the settlers appointed Mr. Henry Dowling their agent. It was the intention of the local government that laborers should be sent out in small numbers by the regular traders; and thus afford time to pay the cost of their transit without difficulty to the treasury. The emigration commissioners objected to all these plans, and set them aside. Indentures were disallowed; and instead of laborers in the proportions required, families were conveyed,

or they were sent in rapid succession, hundreds together. On their arrival a financial crisis reduced their wages: the home government changed its views, and resolved to continue transportation: the land fund, which had reached £52,000 in 1841, rapidly declined, and in 1843 Lord Stanley was informed that for years to come little revenue could be expected from the sale of land. The local officers, unable to pay the charge, were induced to dispute it; and they attempted to cast on the agents of immigration the failure of plans disallowed by the commissioners. They evaded the payment for one year. The claims of the shippers were instantly allowed by the secretary of state, with the usual interest; and Mr. Dowling, who had been aspersed by the local government, was amply vindicated by the commissioners. The colonial secretary charged him with collusive sale of his agency to London shippers, and a fraud on the colonial treasury. Mr. Dowling protected his character by an appeal to the supreme court, when Mr. Horne, the attorney-general, admitted that the imputation was unfounded, but succeeded in convincing the jury that no malice is to be inferred from the tenor of a libel when the writer cannot be supposed to be influenced by mere personal animosity. Mr. Dowling lost by his agency more than a thousand pounds.

An exceedingly useful class of emigrants arrived under the commissioners, who readily sanctioned the applications, regard being had to the equality of the sexes. The commissioners defended their opposition to the plans of the local government. They asserted that private agents could never select laborers in numbers sufficient to freight a ship; and they inferred that transferrable orders for the payment of bounty on the arrival of emigrants would be either matters of traffic, or that private persons, discouraged by the difficulties of their task, would abandon it in despair.

For two or three years the emigrants were satisfied and moderately prosperous. The sub-division of town property was rapid. On every side small brick tenements multiplied. Every mechanic aspired to possess a dwelling of his own. But Lord Stanley's system of probation rapidly told on the condition of the workman. He stood aghast; he persevered for a time; he appealed to the government for protection against convict competition. For one-fourth its actual cost his property passed into the hands of others: in Launceston especially many suburban neighbourhoods were deserted.



The emigrants brought out at so much public and private cost were expelled to the adjacent settlements, to begin the world anew.

One of those seasons of general distress to which small communities are especially liable pervaded the entire colonies (1841-4). A variety of causes contributed to augment its pressure, and to involve the whole in commercial embarrassment. The imports of New South Wales and Van Diemen's Land exceeding £20 per head; the high price of grain, reaching 28s. per bushel; the enormous rate of interest, and the boundless extravagance of credit and expense, produced a convulsion all but universal.

The measures of the government increased the pressure of these difficulties. The land sales by auction at Port Phillip were succeeded by the system of selling on special surveys, at £1 per acre; and he who, one year before, had competed for his purchase, found the next section in the hands of his neighbour, at half the price he had given. The settlers in the elder colonies had speculated deeply. Stock and implements were transferred to the new country, under cover of credit. Competition raised the value of bullocks to £30 per pair; of horses to £60; of sheep to £2; the wages of servants to £50 per annum.

The government had raised the minimum price of land; and thus those who were entitled to take up their surveys under a lower denomination hastened their purchases with borrowed money. The London merchants consigned immense quantities of goods on speculation which were poured into the market; the promissory notes of irresponsible persons were taken by their agents: the fraudulent laid up for the crisis; insolvent estates were crowded into auctions; goods sunk below the expenses of the factor; dividends of a few shillings in the pound represented the assets of persons indebted from £50,000 to £100,000; and had not the chief losses finally rested with the London merchants and the English banks, the disasters of the times must have long retarded colonial prosperity.

The effects of this revulsion were soon felt in Van Diemen's Land, where peddling traders had thriven in momentary credit by the union of worthless names on their bills. As an instance: one hundred bushels of wheat, sold ultimately for £40, were transferred to a succession of speculating purchasers, who raised among them £1000, on credit of the exchange from one to another. The govern-



ments of the colonies had exhibited remarkable miscalculation. In all the treasury failed to meet the expenses. The deposits formerly realised by land sales were withdrawn from the banks. Debentures were issued; new taxes were imposed. The commercial panic was in full career when the crown renewed transportation to Van Diemen's Land; and thousands and tens of thousands of British offenders were gathered on these shores. The expenditure of the government, though large, was chiefly confined to the Capital, or fell into the hands of the merchants; but it is worthy of remark, that, except one house, all who could pretend to that rank maintained their position.

The settlers were, however, deeply involved. They were mostly induced to purchase at the land sales by borrowed capital. They complained bitterly of the usury, to which their produce bore no comparison; and incessantly invoked the legislature to limit the exactions of money-lenders. To aggravate these evils American flour poured into the colonial markets, drawing their cash and rendering agriculture profitless. The declarations of insolvency were daily. Whole streets of mechanics and traders followed each other. A common liability to the same ordeal introduced a system of dangerous license; and men walked away with their creditors' property without molestation and almost without reproach. The statistics of these times afford a memorable warning to all. To the government, that by enticing the people to purchase land, the general revenue will suffer by their imprudence; to the banks, that by reckless advances capital will be sacrificed for nominal assets; and to the British merchants, that by glutting every store with speculative consignments they render their exports of no value—that they ruin the shopkeeper, whose capital they destroy by the competition and sacrifice of their own.

But the great resources of the colonies soon manifested themselves. A settler at Port Phillip discovered or applied the art of boiling down the surplus stock, so as to produce the tallow of commerce; and sheep, lately 2s. 6d., became worth eight shillings. The discovery of the Burra mines raised Adelaide from deep prostration. The opening of new tracts of country offered a vast field for successful enterprise; wool once more rose in price; the banks lowered their discounts to a reasonable level; the goods saved from the general wreck appeared in the shops of those who took the tide at its flow; and every colony exhibited the signs of returning vigor—all but Van Diemen's Land.

## SECTION V.

THE last three years of Sir John Franklin's administration were chiefly employed in arranging the details of the system of convict discipline, afterwards expanded by Lord Stanley to gigantic proportions, and described in the second volume of this history. Accompanied by Lady Franklin, Sir John penetrated the western district of Van Diemen's Land to Macquarie Harbour, formerly a penal station, to ascertain its fitness for a similar purpose, and some of the perils of his early life were renewed. His absence for several weeks awakened great anxiety, and his return was greeted with a general welcome (1842).

The most painful event of his political career sprung from a disagreement with the nephews of Sir George Arthur, and especially with Mr. Montagu, the colonial secretary. A narrative of this dispute, written by Franklin on his return to England, was issued for private circulation just after he started on his last voyage of discovery.\* This account traces minutely the progress of a quarrel which all parties concerned are anxious to forget. The power acquired by Mr. Montagu in colonial affairs was considered by Franklin incompatible with their relative position. Inferior officers had been dismissed on his imperative advice, who complained that they were sacrificed because they stood in his path and thwarted his plans. Franklin partly shared in their suspicions, and appointed persons to offices who were unconnected with the Arthur party, and as a counterpoise to their influence. The immediate cause of the final rupture was the restoration of a colonial surgeon, dismissed on a charge of culpable negligence. His neighbors, believing the penalty unjust, remonstrated in his favor, and Franklin complied with their request. This Mr. Montagu severely condemned, as fatal to the dignity of government, and ascribed the lenity of Sir John to the influence of Lady Franklin. He then announced to the governor, in a formal manner, that thenceforth he should confine his own services to the routine of his office, and that a cordial co-operation might be expected no longer. The details of business, formerly prepared to the governor's hands, were left to himself: trifles exhausted his attention: his pleasure was asked with affected

\* *Narrative of some passages in the History of Van Diemen's Land, during the last three years of Sir John Franklin's administration of its government.*  
VOL. I.



formality, and his enquiries answered with studied reserve. In a dispute with the governor in reference to a matter of fact, Mr. Montagu addressed him (17th of January, 1842)\* in the following style:—"I trust," said he, "your excellency will also pardon me for submitting to you—and I beg to assure you that I do so under a deep conviction of the necessity of supporting my statement—that while your excellency and all the members of your government have had such frequent opportunities of testing my memory as to have acquired for it the reputation of a remarkably accurate one, your officers have not been without opportunity of learning that your excellency could not always place implicit reliance on your own." Clothed in a profusion of words, the charge of imbecility or falsehood was understood. The jealousy and contempt which had characterised the late official intercourse of Sir John and the secretary could not but injure the public service and divide the government into factions. But this language was deemed inconsistent with official subordination, and on its receipt Mr. Montagu was dismissed. Aware that it would be difficult to justify his note, Mr. Montagu offered an apology, with a view to a restoration. He sought, through Dr. Turnbull, the friendly offices of Lady Franklin. Her mediation was employed, and was unsuccessful; but Sir John promised to represent the past services of Montagu in the most favorable terms to the secretary of state, strongly recommending his employment elsewhere. This pledge the governor redeemed. Lord Stanley received Mr. Montagu with favor—consulted him in reference to convict discipline—heard his complaints of Sir John and Lady Franklin—and treated the governor in his own imperial way. He admitted that the proper relative positions of Franklin and the colonial secretary had been inverted; but ascribed the ascendancy of Montagu to his intellectual superiority; ordered his salary from the hour of his dismissal to be paid; and claimed the credit of great moderation in not sending him back to his office. The generous testimony of Sir John in Montagu's favor was quoted to condemn his dismissal. The despatch containing these sentiments was placed in the hands of Montagu, who, with natural exultation, sent it out instantly to his friends. He had preserved minutes of his interviews with Lord Stanley, and recorded his own severe reflections on the character of Lady Franklin. These memoranda, bound together, were sent by Mr. Montagu to the colony, and,

\* *Franklin's Narrative*, p. 21.



although circulated with some reserve, became very generally known. The governor complained bitterly of this covert detraction, and especially of the attack on the character of his wife, whom he solemnly vindicated from that interference with public business charged upon her. No one who reads the dispute will deem it necessary to weigh nicely the reproaches which were current on either side. To destroy or be destroyed is the usual choice of official war; and Montagu had not been bred in a school where more generous maxims prevail. He had conquered; and the feelings of the governor or his partisans were not likely to be treated with tenderness. Sir John is perhaps the only man who ever accompanied a dismissal with eulogy, and the result of his candour will probably prevent its imitation.

To Lord Stanley more blame must be attached. It was his duty to care for the reputation of a governor whom he did not instantly recall. But his despatch was in print long before it reached the hands of Franklin, and must have been fatal to his proper authority had not popular sympathy sustained his government. Before Sir John received an official notice of his recall his successor arrived. On this abrupt termination of his office he obtained private lodgings in haste. The Legislative Council, then sitting—the various churches and literary societies, expressed their admiration of his personal character, and, more sparingly, their approval of his administration. He was attended, on his departure, by a considerable party of northern colonists. Sir John, in reply to their addresses, spoke with some warmth of that portion of the press which had libelled his wife,—a lady devoted to the welfare of the colony; whose last act was to settle property on an institution for scientific uses; whose benevolence was unbounded, and who, at a large sacrifice of her private fortune, had ministered to the comforts of the poor. Had it been consistent with his duty, he said, he would have gladly exposed to the whole people his most secret measures. He declared that he would never fail to uphold the reputation and to promote the prosperity of the colony. The frank and humane temper of Sir John Franklin won the affections of the settlers. He thought favorably of their general character, appreciated their moral worth, and shared in their notions of convict discipline. The insults of which he complained were the acts of a few: a philosopher would have smiled where he deprecated; and have felt that the salary of office is not more certain than the enmities which surround it.

The alleged ascendancy of Lady Franklin in public affairs it would be useless to discuss. Her masculine intellect and adventurous spirit led some to ascribe to her more than the usual authority of her sex and station; but whenever apparent, her influence was exercised on the side of religion, science, and humanity.

The appointment of Franklin to this government was made at the instance of William IV., by whom he was greatly esteemed. It was the expectation of Sir John to find an easy retreat, like some of the military governments, where veterans enjoy the dignity of office without its toils. But he found himself doomed to encounter all the responsibilities of ordinary legislation and government, with difficulties peculiar to a penal colony. For this his former pursuits had not prepared him. His manner was often embarrassed and hesitating, and presented a contrast to the quiet vigor of his more able but not more amiable predecessor. The colony had attained that development when the public institutions require reconstruction, and the popular will must in some measure regulate their form and spirit. The administration of the governor was eminently disinterested. He had no private speculations or secret agents, and his measures were free from both the taint and the reproach of corruption. Such faults were sometimes imputed, but they were the staple slanders of writers without credit or name. His expenditure greatly exceeded his official income; and while the plainness of his establishment and entertainments was the topic of thoughtless censure, the charities of his family were scattered with a liberal hand. The piety of Franklin was ardent, and his conscience scrupulous. His remarks in council on the sports of some idle boys in the government domain on the Lord's Day exposed him to the satire of scorners. He thought that youths who violate the sanctity of the Sabbath take the first ordinary steps in a dissolute and dishonest life. An anecdote, on the authority of Captain Back, shows his harmless character in a striking light.\* The writer observes—"As an illustration of the excellent individual to whom it refers, I may be pardoned for introducing it here. It was the custom of Sir John Franklin never to kill a fly, and though teased with them beyond expression, especially when taking observations, he would gently desist from his work, and patiently blow the half-gorged intruders from his hands, saying, 'The world is wide

\* *Back's Expedition*, p. 180. 1836.



enough for both.' Manfelly (an Indian chief) could not refrain from expressing his surprise that I should be so unlike the 'old chief' who would not destroy a single mosquito."

The name of Franklin is indissolubly connected with the great problem of modern geography—the connection of the polar seas with the north pacific ocean. In 1818 he was first employed in this service, but returned without success. In 1820 he conducted an overland expedition to the Coppermine River. This party suffered every kind of hardship, from the loss of boats and the mutiny of their attendants: several perished, having eaten their old shoes and scraps of leather: yet Franklin recorded in his journal the following grateful expressions—"We looked to the great author and giver of all good for the continuance of the support hitherto supplied in our greatest need." They completed a journey of 5,550 miles. The narrative of this expedition excited at the time much admiration, as a rare example of intrepidity, perseverance, and elevated piety.\* In 1824 Franklin was entrusted with the charge of another expedition. They were attacked by the Indians, and the party was saved from destruction by the coolness and judgment of the leaders: they encountered storms, fogs, and cold, which prevented their reaching their destination. These efforts considerably enlarged the scientific knowledge of the icy region. On his return to England in 1843, it was resolved to confide to Sir John Franklin a new effort to discover the north-west passage. Accompanied by Captain Crozier, he sailed in May, 1845. The vessels—the *Erebus* and *Terror*—were furnished with provisions and artificial fuel for four years. They were last seen by whalers in Lancaster's Sound.

In 1847 the long absence of Franklin and the 136 persons under his command awakened considerable alarm. English expeditions, both by land and water, a reward of £20,000 offered by parliament, and the earnest co-operation of foreign powers, have done all that money, or daring, or affection could accomplish to solve the mystery of their fate. Though these efforts are not even now (1852) relinquished, the issue has ceased to be regarded with hope;—except by Lady Franklin, whose exertions to rouse and prolong the search have excited the sympathy and admiration of nations.

\* *Quarterly Review*.





# **HISTORY OF TASMANIA.**



**FROM 1843 TO 1847.**





## FROM 1843 TO 1847.

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### SECTION I.

SIR JOHN EARDLEY EARDLEY-WILMOT, BART., succeeded Sir John Franklin, August 21st, 1843. His short and troubled administration, although crowded with incident, presents few events of permanent interest. Charged with the development of a gigantic scheme of penal discipline, founded on erroneous data, and imperfectly sustained by material resources, he was involved in the discredit of its failure. The opposition of the colony to his measures he too readily resented as disrespectful to himself, and thus a long and useful public life was closed in sadness.

Sir Eardley Wilmot received his appointment from Lord Stanley, whose political leadership he followed in his secession from the whigs, occasioned by the reduction of the Irish church. During successive parliaments he represented Warwickshire, and for twenty years was chairman of the quarter sessions of that county,—in England a post of some consequence. He inclined rather to the liberal than the tory section of the house, and supported most measures favorable to civil and religious freedom. On the question of negro slavery he was a coadjutor of the decided abolitionists, and on his motion apprenticeship, a milder form of slavery, was finally terminated. He contributed papers on prison discipline, and initiated a bill for the summary trial of juvenile offenders. Thus he appeared not unqualified to preside in a colony where penal institutions constituted the main business of government, and where many religious opinions divide the population.

The gazette which announced his appointment contained the nomination of Sir Charles Metcalf to the governorship of Canada, vacated by Sir George Arthur. An article in the London *Times* attacked Sir E. Wilmot with uncommon

acrimony, attributed by himself to the influence of private spleen. He was described as a mere joking justice, accustomed in his judicial office to "poke fun" at prisoners, destitute alike of talents and dignity, and his character a contrast with that of the new Canadian governor. This bitter diatribe was published in the colonies, and was not forgotten in the strife of factions. Metcalf was indeed a governor with whom the widest comparison would scarcely find an equal. Every Capital he ruled is adorned with his statue, and when he descended to the dust his tomb was wet with the tears of nations. He consulted the ministers with the independence of a patriot, and governed the people as one of themselves.

Wilmot landed at a distance from Hobart Town, and delayed his entrance on office to afford time for a removal of Franklin's household. When he was sworn in the town illuminated, and the usual excitement of novelty wore the appearance of public welcome.

The open and affable address of the governor attracted the people. He rapidly traversed the island. The agricultural knowledge he possessed, his promptitude in forming and expressing opinions, contrasted with the habits and manners of his predecessor. Those who were experienced in official life foresaw the dangers of a temper so free and of movements so informal. The opponents of the late governor recommended the neglect of all the distinctions which had limited intercourse, and some persons, never before seen at government-house, were admitted to the closet, and boasted their intimacy and influence.

Scarcely had Wilmot entered office, when an exercise of mercy brought him into collision with one of the judges. Kavanagh, a notorious bushranger, was condemned to death. He had fired on a settler, whose house he attempted to pillage. In giving sentence the judge remarked that he had seldom tried a culprit stained with so great an aggregate of crime. Ten minutes before the time appointed for his execution the governor granted a reprieve. Judge Montagu was indignant, and those who had suffered by the depredations of the robber shared in his opinion. The press, in commenting on the commutation, predicted that the culprit would not long escape the scaffold. He was implicated in the murders of Norfolk Island, and suffered death (1846). Judge Montagu, shortly after the reprieve, tried four men for a similar crime, and instead of pronouncing sentence, directed death to be recorded. He stated that the sparing of Kavanagh could only be justified by the almost total abolition of capital punishment. At a



meeting of the Midland Agricultural Association Wilmot noticed these reflections, and declared that he would never inflict death in consideration of offences not on the records of the court, and that in this case robbery only had been proved. He thus early complained of anonymous attacks, and admitted that in offering these explanations he was outstepping the line of his situation. Topics of a far more agreeable nature were suggested by the special business of the day. He dwelt with great fluency on the advantages of agriculture, and dilated on the importance of independent tenants and an industrious peasantry. "You," he observed, "are to consider yourselves as the column of a lofty pillar; but, depend upon it, a tenantry form the pedestal,—a virtuous, moral, and industrious peasantry the foundation on which that pillar rests. I see around me some of your largest proprietors, who this day are lords of wastes and princes of deserts; but who, if the system of tenantry be carried out as fully as it deserves, will become patriarchs; and the future Russells, Cavendishes, and Percys of the colony may be proud to date their ancestry from any one of you."\* This strain of compliment was returned by Mr. Kemp, the oldest of the settlers,—so many years before distinguished in the deposition of Governor Bligh. He congratulated the meeting on the appointment of his excellency, whose presence he compared to "the vivifying rays of the sun after a long cheerless winter, encouraging the ploughman to resume his labors with fresh spirit."

The prevalence of bushranging, though far less than at an earlier period, induced the midlanders to project a yeomanry corps. They were to provide weapons, meet for exercise, and always stand prepared to answer a summons. They proceeded to the choice of a treasurer and secretary—Messrs. Keach and Leake, Jun. They were, however, informed that the levying of armed men is the prerogative of the Queen. On reference to the governor, he declined to sanction their incorporation, while he praised their martial spirit. Bushrangers rarely move in numbers, and a military is not the kind of power best adapted to suppress them.

On meeting his council for the first time (October 21, 1843), Wilmot expressed his admiration of the colony, its soil, its climate, and immense resources. He promised to consider the pecuniary difficulties of the settlers, with a view to their alleviation. Referring to the appointment of a

\* Agricultural Dinner, October 18, 1843.



comptroller-general, the chief officer of the convict department, he declared his cordial concurrence with the new discipline as a reformatory system; and, noticing the recent arrival of a bishop, he avowed his preference for the episcopal church, and, in still stronger terms, his attachment to religious liberty and equality.

The salary of the governor was augmented to £4,000 per annum: the former uncertain but expensive allowances were withdrawn. Franklin had enjoyed £2,000 per annum, as salary, and the government houses of Hobart Town, New Norfolk, and Launceston; a farm at New Town, and a large garden in the domain. The salary of the new governor was given in full discharge of all demands. The beautiful gardens he determined to throw open to the public.

Having accepted the office of president, Wilmot convened the Tasmanian Society, formed by Franklin, and presented a series of alterations in its organisation. He proposed that it should consist of a president, four vice-presidents, and a council of twelve, to be nominated by the governor; and that at first it should be limited to fifty fellows. The project was distasteful to the original members of the Tasmanian Society, who objected to the summary increase of their body. Wilmot proceeded to incorporate those who concurred with his views as "The Horticultural and Botanical Society of Van Diemen's Land." They were then intrusted with the government garden, and the appropriation of a grant of £400 per annum, required for its cultivation. The discarded society complained of the haste of the proposed revolution. They thought past services demanded a consideration of their wishes. They had received in trust an endowment from Lady Franklin of some prospective value; they corresponded with men of the first scientific circles; and they had published a journal which widely extended the physical knowledge and European fame of this hemisphere. None who are experienced in the causes of political discontent will consider such trifles without serious effect on the tempers of parties and the peace of rulers.

Wilmot received the government in a condition most unfavorable to his tranquillity. The arrival of many thousand prisoners had for a time quickened trade, and some months elapsed before they became competitors for the bread of the free mechanics. The universally low price of labor, the demand for dwellings, and the closing of a local bank, which liberated small capitals, occasioned a competition for town allotments, and set all classes to building. But this stimulus

was soon exhausted, and workmen of every grade began to suffer distress. They found hundreds of passholders working at a price to them, indeed, ample, but on which a family would starve. The regulations introduced by Lord John Russell discouraged employment of prisoners in the towns, where they could easily indulge every evil inclination, and where they abated the value and respectability of labor; but such was the pressure of numbers on the colonial government that its officers were glad to abandon all reformatory theories to get rid of the crowds which idled their time and burdened the British treasury. The free operative classes appealed to the governor for redress. Wilmot replied by appeals to their humanity: he said that many prisoners of the crown, influenced by bad example, ignorance, and want, had lost their liberty; that it would be unkind and unjust to obstruct their progress to competence and reformation. These excuses for a policy which tended to depress honest workmen only convinced them that it was time to retire from the country. A more powerful class might have shown that the proper office of mercy is to shorten the duration of a sentence, and not to inflict punishment on unoffending families of freemen.

A party of colonists, who chose Mr. Gilbert Robertson as their secretary, formed an association to promote the amelioration of financial embarrassment. They nominated a "central committee," to prepare information for the guidance of the government, and to watch over legislation. In explaining their plans to Wilmot they professed to feel confidence in his liberality, judgment, and zeal. To this he replied in glowing terms. He told them that during a short residence he had traversed the colony and acquired a knowledge of its value; that he had projected many schemes for the improvement of agriculture and the relief of the treasury. He gave strong assurances both of his expectation of better days and his efforts to hasten them; but then he complained that the association, by its structure and schemes, depressed his anticipations; that they proposed to supersede imperial instructions, and to supplant his constitutional advisers. The objections he offered, and the tone in which they were urged, induced a practical dissolution of the society—scarcely compatible with regular government.

For the last time in these colonies application was made by the settlers for a law to restrict the amount of usury. It had been a favorite object for many years. They asserted that the exactions of capitalists involved the colony in a hopeless



struggle. England had, however, abrogated usury laws, and left the value of money to be determined by the ordinary relations of supply and demand. To this principle the governor resolved to adhere (1844).

What the law could not effect was produced by a less exceptionable process. The merchants and professional men addressed the banks, and urged an abatement of interest, then 10 per cent. for short-dated bills, and 12½ for renewals. They appealed rather to liberality than to abstract right. This was followed by a reduction in the Van Diemen's Land Bank,—an example which the other establishments did not readily adopt. Eight per cent. soon, however, became the highest amount usually exacted in regular transactions.

The difficulties of the agriculturists from the low price of grain, induced them to look for artificial relief. With too much facility Wilmot gave hopes which he could not realise. The imposition of a heavy duty on New South Wales tobacco, amounting to prohibition, and that just as it was reaching considerable perfection, led to the imposition of a duty on our grain. It was the wish of the Tasmanian settlers to restore free trade between the colonies, and to impose discriminating duties on the produce of foreign countries; but the harsh and ridiculous system of colonial government, which discriminated between Australian and Canadian grain, compelled one British colony to treat another, its next neighbor, as an alien, and that while England demanded free admittance for English manufactures. The peremptory instructions of Stanley were conveyed to the local governors in terms of intimidation.\* They were forbidden to allow any kindred colony the least advantage over foreigners, or to pass any bill for that purpose, and were told that any evasion of this restriction would occasion the high displeasure of the crown. The reason alleged for this interference was that colonies could not be expected to understand the treaties and trading system of the parent state; as if any treaty should have hindered a commerce actually not more distinct than the trade between London and Liverpool. Wilmot warmly espoused the claim of the Australian colonies to share in the privilege of Canada, in favor of which the duties had been relaxed on colonial grain. Mr. Hutt brought their petitions before the attention of parliament; but he could not plead a political necessity, and the ministers were able to resist without the risk of a rebellion. They asserted that the

\* Despatch, June 28, 1843.



distance made the concession of no practical value, while it would tend to augment the alarm of the English farmers ! Thus, while they humored the empty fears of their own constituents, they afforded another example of the futility of colonial petitions which, however just, it is convenient to disregard.

To assist agriculture, the council passed an act interdicting the use of sugar, under certain conditions, by public brewers. The trade strongly objected to the restriction, as impolitic, vexatious, and impracticable. Their objections were admitted by the secretary of state, who quietly observed that he had been advised that sugar could not be considered deleterious. This is the last attempt at protective legislation.

To benefit the rural interest the governor proposed a grand scheme of irrigation. An eminent engineer, Major Cotton, was employed to report on the subject, and suggested the detention of the waters of the vast lakes which overflow from the heights of the western mountains. A rate to be imposed on the various estates was to discharge the cost. Thus in those seasons of drought which sometimes occur the lowlands would be made increasingly fertile. The immediate object—the employment of probation labor at the colonial cost—detracted something from the charms of the project. Nor did it seem just that the settlers should risk the ultimate cost of an undertaking they could not limit. Sir E. Wilmot earnestly recommended the scheme to the home government, but Lord Stanley hesitated until the evils of the probation system enforced a change, and lessened the labor at the disposal of the crown. Had the men been employed on a work so popular they would have been withdrawn from the colonial eye, and the interest of their new labors might have extinguished the prevailing discontent. But while the governor waited for instructions the men were idle, or employed in useless attempts at cultivation on barren land, of which the produce rarely defrayed the cost of the implements destroyed.

The charge for police and gaols had always been borne by the legislative council with impatience. The estimates were accompanied by an annual protest against entailing on the colony any pecuniary consequence of British crime. But when the convict labor was withdrawn from the roads, and new taxes demanded, the time arrived for the most decided resistance, and the event proved that the councillors who refused their consent acted with prudence. The minister

himself was compelled to own at last, that the exaction of twenty shillings per head for police, was unexampled in civilised governments.

In 1836 Mr. Spring Rice (now Lord Monteagle) took advantage of a considerable local land fund to throw on the council the police establishment of the colony, occasioned by transportation. The sum then required (£14,000) was comparatively unimportant, and it was urged that the labor of convicts employed on public works at the cost of Great Britain, except £4,000 for superintendence, was a sufficient compensation. But the charge for constabulary and prisons gradually increased to £36,000. The land fund, after deducting £97,000, expended for emigration, for the support of aborigines, and the working of the land office, yielded in ten years a surplus of £207,000, carried to the general revenue; but during this time the charge for police and gaols exceeded £311,000. The increase of judicial expenses, and especially of witnesses, was proportionately great; and this last item in one year (1846), although most lighter crimes were disposed of in a summary way, rose to £6,000. The execution of public works by the crown had been the sole vindication of these charges. From this arrangement Lord Stanley departed, and in peremptory terms prohibited a spade to be moved but on payment from the colonial treasury. Thus at a season of commercial stagnation the benefit of convict labor was withdrawn, while the charges for police and gaols rose to one-third of the entire revenue of the colony, and in two years and a-half a debt accumulated to £100,000.

Notwithstanding the obvious injustice of this burden, the treatment of the New South Wales legislature gave slight hope of redress. Lord Stanley directed Sir George Gipps to obviate the threatened resistance of that council by hastening pardons to the prisoners, by withdrawing them from the service of the settlers, and by sending those not otherwise disposable to Van Diemen's Land. He was forbidden to relieve extreme financial difficulties by drafts on England, or draw from the military chest, although at the period an immense body of convicts remained long after transportation had ceased. This disregard of a more powerful colony led the people of Van Diemen's Land to infer that from a minister so unscrupulous no justice could be expected while evasion was possible.

Wilmot was deeply embarrassed, but he determined to adhere to the instructions of the secretary of state,



whose distance prevented his perceiving the hopelessness of his project until that discovery was unavailing. The positive nature of these injunctions left no room for discretion. The governor was commanded not to adopt any detailed regulations at variance with the scheme prescribed by the crown, or to depart from its provisions without express authority.\*

Sir Eardley Wilmot resolved that the utmost extent of taxation should be tried rather than infringe the orders of Stanley. A bill to raise the duties on sugar, teas, and foreign goods from 5 to 15 per cent. encountered an earnest but unavailing opposition. This bill was still more obnoxious from a clause, afterwards abandoned, to levy the duty on the current value of goods at the market of consumption, instead of export—a mode which taxed all the expenses of shipment. Mr. Gregson proposed the rejection of an impost required only by the extraordinary pressure of convictism. Several of the non-official members voted with the governor for the last time.

A committee of the council had been appointed to ascertain how the expenditure could be reduced and the revenue augmented. They enumerated various forms in which further taxation might be practicable. These were proposed by the governor. Auctioneers, pawnbrokers, publicans, butchers, eating-house keepers, stage-coach and steam-boat proprietors, cabmen, and watermen, were to be subject to new or increased license fees.

This project aroused the people to an unusual degree. On the day of public meeting† a procession of cabs and waggons, decorated with flags bearing the inscription, "No taxation without representation," presented a novelty in colonial agitation. Mr. Kemp, the veteran politician, presided. The opposition prevailed, and the governor resolved

\* Despatch, No. 34, 1843.

† NO TAXATION !

A meeting will be held at the Theatre.

Auctioneers, rise at our bidding.

Pawnbrokers, pledge the public your interest.

Butchers, show your pluck.

Publicans, prove your spirit.

Stage-coachmen, drive on.

Cabmen, make a stand.

Carters, put your shoulders to the wheel.

Eating-house keepers, support the constitution.

Boatmen, a long pull, a strong pull, and a pull altogether.

God save the Queen !



to withdraw the obnoxious measure. It would be difficult to discern a line beyond which taxation might not pass, if every trade and profession can be subject to arbitrary imposts levied by a legislature at the mere dictation of the crown.

Referring to this meeting as a triumph which history would report to the latest posterity, the *Courier* added—"Rulers will henceforth recoil from the virtuous indignation of the people, as the reptile recoiled from the touch of Ithuriel's spear." It was supposed by Wilmot that this not very lucid prediction conveyed a gross and personal insult, and that it attributed to him the artifices and loathsome habits of the fiend. The private secretary was instructed to withdraw the subscription of the governor, and to explain the cause of his displeasure. Such petulance took the colony by surprise. A less experienced politician might have been expected to disregard a heavier censure; and this conflict with a local editor was noticed by the London press as a curious instance of official sensibility.

The sheriff refused to call a meeting to consider the condition of the colony, because one of the objects was to notice the appropriation of the public revenue. This he had been advised was an interference with the royal prerogative! The friendly tone of his refusal restrained the wrath it was calculated to excite. It is quite impossible to suppose any branch of politics more clearly within the sphere of popular remonstrance than the expenditure of the public money (August, 1845).

Mr. Bicheno, the colonial secretary, who, like the governor, might have been popular in quiet times, was little qualified for a stormy debate. He announced the most arbitrary notions in the blandest tones, and asserted that the doctrine of concurrent representation and taxation was a wild revolutionary idea, exploded by American independence. The revenues he called the Queen's, and thought it monstrous that any should dispute her right to her own. Though he compared the parent country to the hen and the colonies to chickens, he could see nothing to disturb the analogy in a demand for fresh contributions. He asserted that all constitutional history showed that it was the prerogative of the crown to tax the people, and instanced the Cape—a conquered province—as an example. He affirmed that customs were not taxes, as the public were not compelled to use the articles on which they were levied. The prosperity of communities he asserted rose with the increase of taxation; that

the placards posted over the town were a complete delusion. Taxation and representation—a cry first introduced by Lord Chatham, was, he said, never adopted by the liberal whigs (August, 1845). Such un-English notions were no assistance to the cause of the executive, and were distasteful to all who pretended to value constitutional government.

The *ad valorem* duties, raised to 15 per cent., for some time produced less than they realised at five. The licensing scheme being rejected, nothing remained but to reduce the expenditure or increase the debt. To relieve the revenue and employ the convicts the executive proposed a road act, and another for lighting and paving Hobart Town. The great objection to these measures was their design to evade the question at issue between the home government and the colony;—with many more odious still as recognising a right in a crown appointed legislature either directly or indirectly to tax the people. Mr. Gregson stated early in the session that he would not levy a shilling additional until the burdens of police were equitably adjusted. Supported by Captain Swanston, formerly a staunch adherent of Sir G. Arthur, he successfully moved the rejection of these bills. Their discussion drew forth many expressions of personal feeling. The governor declared he would not stay in office one hour did he not believe that Lord Stanley meant fairly by the colony, or could he not conscientiously act upon his lordship's instructions; and he begged that all the opprobrium cast on Lord Stanley might be considered equally applied to himself. He remarked that the opposition had exhibited a spirit "more radical and even Jacobinical" than he ever had witnessed in parliamentary factions. These reproaches were repelled by Mr. Gregson, who contended that in resisting unjust exactions for convict purposes he was promoting the real interests of the colonial government. The governor retorted that with such support as the honorable member afforded he would readily dispense.

When the estimates for the year were presented (August 20th) the country party insisted on enquiry, and Mr. Dry proposed the appointment of a committee to ascertain the proportionate burdens transportation imposed. This motion was rejected by the governor's casting vote. Another, made for adjournment, to give the members time to investigate the items, met a similar fate. It was, however, discovered when the estimates were read that they differed from the copy in the hands of the members. The chief justice supported a



second motion for adjournment, to enable the colonial secretary to correct these discrepancies. On the re-assembling of the council (25th) the governor stated that considering the determination avowed by the members to refuse all items for the expenses of convictism, and the general state of popular feeling, he had resolved to pause, and to await the arrival of expected despatches on the subject of dispute from Lord Stanley, in reply to his own.

Sir E. Wilmot was sensible of the financial burden inflicted by the convict establishments. A committee of government officers sat shortly after his arrival, and pointed out the many and large items to be traced to the prevention and punishment of crime. This report he forwarded to Lord Stanley. He complained that charges never before thought of were levied by the commissariat, as well as the full value of convict labor, and insisted that the expences incurred by the colonists for police ought in fairness to be defrayed by the crown, or that the labor at its disposal should as formerly be allowed in compensation.\*

So late as August, 1844, the secretary of state refused to entertain the claim for relief. He stated that the colony would be obliged to expend a sum nearly equal, although all the convicts were withdrawn; for their sakes, he said, the island was colonised; they constituted the working population; and he added that in the military and naval protection, the support of the unemployed convict, and the capital and cheap labor poured into the colony, a fair proportion of expenditure was borne by the crown.

Pressed by extraordinary difficulties, Wilmot again† urged the injustice of these conclusions. He complained that not only India, China, and the Cape of Good Hope, but New South Wales, were pouring in felons of the worst description, who, as pass-holders, occasioned a vast outlay for the suppression of crime. He told his lordship that for several years the land fund had totally failed, while the expenses of police and gaols, of judges and witnesses, had risen to £50,000. At this time the number of arrivals was five thousand annually, sent from every colony and dependency of the empire, as well as from the United Kingdom. There were between three and four thousand pass-holders unemployed, 7,000 in private service, 6,000 about to emerge from the gangs, 8,000 with tickets-of-leave or conditional

\* Despatch, December 5, 1843.

† January 24, 1845.



pardons, and in all more than 30,000 unqualified to quit the island without the consent of the crown.\*

It is impossible to read these representations without feeling indignant at the nobleman who suffered the representative of the Queen to struggle with difficulties so manifold and great,—who left him to the alternative of breaking through positive prohibitions or of incurring popular distrust and aversion. To this delay the governor owed much of the opposition he suffered, and the imperial government inconveniences of lasting consequence. Nothing was conceded to justice—nothing to entreaty; and the secretary of state yielded at last as despotism must ever yield,—without merit and without thanks.

The whole change in the details of the convict department was marked by a spirit eminently opposed to the colonial welfare. With singular acuteness and perspicuity Lord Stanley described the former systems as subject to local influence and subservient to local ends. Every governor, he alleged, was under a strong bias in favor of expense, as the patron of a multitude of officials. He stated that the executive council were equally benefited by the wasteful expenditure, either in their own persons or those of their official brethren, and that every colonist had an interest in the multiplication of bills on the British treasury. To prevent these abuses, the convict estimates were thenceforth to be prepared by the colonial secretary, the comptroller-general, and the commissariat officer, subject to the approval of the secretary of state.

The management of the prisoners being confided to the judgment of the governor, Lord Stanley deemed the chief cause of its many changes, and its subservience to colonial prosperity. The deference of the ministers to this discretion he attributed to the unwillingness of the home office to interfere with a functionary in correspondence with the colonial office, and the reluctance of the secretary for the colonies to guide a penal system designed for interests exclusively imperial. Thus, he stated, the governor was practically independent, and had strong inducements to render the labor of convicts subservient to colonial wealth, and to disregard the great design—the prevention of crime in Great Britain. He declared that all schemes of convict management were of colonial origin, and all contemplated local interests as their main object. To prevent these devices he

\* Despatch, Jan. 31, 1845.

proposed to retain in the colonial-office the exclusive management of the details of transportation.\*

Among the items of convict expense was a charge of £164,000 for rations. This Lord Stanley considered an extravagant outlay. He deemed it highly improper that in a country where all the means of subsistence existed in such abundance with an unlimited supply of manual labor, this charge should remain. He however feared that while the convicts were permitted to labor on works of colonial utility the local authorities would always find means to increase the charges for their subsistence (Feb. 28, '43). The treasury concurred in this view, and requested that explicit instructions might be given to Wilmot and the comptroller-general to prevent the employment of labor for the colonial benefit, and to devote their utmost efforts to raise the food on the waste lands of the colony.

The convict department attempted agriculture, and they selected for the experiment cold, damp, and barren soils. Gardens of a few acres occupied a thousand men: the cleared land was utterly worthless. Garden seeds were brought into the colonial market, and potatoes sold at twenty shillings which cost the government £10 per ton. Several hundred men idled their time in cultivating land which did not equal in the aggregate a single farm.† The estimated value of all the articles produced on two stations, Deloraine and Westbury, in 1846, by four hundred men, was less than £2 per man; while the salaries of their officers were nearly double that sum.‡

Mr. Montagu, the late colonial secretary, in estimating the cost of the convict department, presented a calculation £100,000 annually less than the estimate of the officers on the spot. This difference Lord Stanley set up as proof of the culpable negligence and profligacy of colonial expense. He considered the body of persons employed in the control of prisoners excessive. A reduction was therefore enforced, and in the end less surveillance was employed than free labor usually requires.

To each party of three hundred seven overseers were attached, without constables or other restraint. The subdivision of these parties in labor left them often to the practical oversight of a single person, and he an expiree. Thus

\* Correspondence, January 5, 1843.

† Mr. Maclean's Report, 1844.

‡ Dr. Hampton's Report.



they were able to make excursions for the purposes of robbery and pleasure: their clothing tended rather to disguise than distinguish them. As the terms of their service expired they were discharged in the prison dress, and no one could tell whether they were or not illegally at large. Escaped prisoners have been known to walk through bodies of men on the road without challenge. In several instances robberies were committed on travellers within the precincts of the stations. The enclosures were often merely the common garden fence. The judges avowed that in passing sentence for crimes they could not punish them with severity, considering the strong temptations of the men. Remembering the number virtually and legally at large, the degree of safety, or rather the instances of exemption from pillage, must be considered almost miraculous. A great portion of minor crimes were not prosecuted, and a still larger number were undetected; but eight hundred recorded crimes—a scourge to ten thousand families, and full of terror and danger to all—would not seem extravagant when divided among thirty thousand prisoners.

The despatches of Wilmot to Lord Stanley described with accurate minuteness the social effects of the probation system. Those who remember his apparent apathy when those evils were the topics of colonial complaint will deplore the strange fidelity to his political chief which induced him to conceal his own sentiments from the colonists. He stated that the territory was inundated with unemployed prisoners; that no labor being in demand, they must either starve or steal; that a yearly increasing pauper population, without adding one atom to colonial wealth, would swell the catalogue of crime and increase the public expense in every form; that the number out of employment was fearfully great; and that land—cleared, fenced, in complete cultivation, with houses and buildings—might be bought at the upset price of waste land. To remedy these evils he proposed the extension of conditional pardons to the Australian colonies, the remission of the price of crown lands to emigrants, and the letting of allotments at a nominal rental for seven years to conditionally pardoned men, with a contingent right of purchase.\*

To all these remonstrances, so far as they affected the colonist, Lord Stanley had a ready reply. The colony was originally penal, and could claim neither compensation nor relief.

\* Despatch, January, 1845.



He considered that in emigrating the colonists surrendered at discretion; that they were not entitled to object to the trebling of their police burdens and to the importation of all instead of a small part of the convicts of the empire, as was the case up to 1840. His rejoinder was felt with that bitterness which none can realise who have not known the tyranny of irresistible despotism. Happily for mankind there is no power above the steady and determined operations of truth and right. The cruel desertion of the people in the hour of their distress—the scornful defiance of their complaints, has involved the cabinet of England in difficulties for which nothing but great sacrifices will fully obviate. No people in this hemisphere will entirely trust a British minister until the history of Van Diemen's Land is forgotten.

The anticipated relief not having arrived, the governor again assembled the council on the 21st of October. He now proposed several expedients to meet the exigencies of the moment. He had, unauthorised by the council, borrowed money of a bank. He proposed to stop the forage allowance of the clergy, and to retain  $12\frac{1}{2}$  per cent. of the salaries of the officials. Both these measures were withstood—the last effectively. The chief justice denied the power of the council to interfere with his income. When a new set of estimates was offered they were found to be unintelligible, and an adjournment, to enable the colonial secretary to afford the necessary information, was proposed by Mr. Dry. This reasonable request was lost by the governor's casting vote, and several motions with a similar object were defeated in the same manner. Mr. O'Connor, the non-official member who supported the executive, was absent, and thus the votes of the official and country party were equal, and the balance was in the governor's hands.\* At the next sitting of the council Wilmot proposed to pass the estimates. Ineffectual efforts to postpone their consideration exhausted all means of evasion, and Mr. Dry moved that the Appropriation Act should be read that day six months. He expatiated on the injustice of the system which condemned the colony to the cost of an imperial scheme, and insisted on the solemn obligation of the council to resist an accumulation of debt which

\* Mr. O'Connor, however, had protested against the police expenses in the following terms:—"Because, were this not a penal colony, one-third of its present police force would be adequate to its protection. I therefore do not consider that in common justice the colonial government ought to be required to defend themselves, at their own expense, against the aggression of convicts sent hither principally for the benefit of the mother country" (July, 1844).

must involve the colony in ruin. Mr. Gregson followed, and referred to the unavailing representations of Sir G. Arthur, Sir John Franklin, and Sir E. Wilmot himself, in reference to police expenses, and dwelling on the evils of the convict system. An adjournment of the debate being moved the governor opposed it with his deliberate and casting vote, and added that he resisted the motion because it was only intended to embarrass. The Appropriation Act would then have gone to the third reading, but the non-official members at once quitted the chamber, and reduced the number below the legal quorum. On the day following Mr. Gregson appeared at the table and apologised for the absence of his honorable brethren, who were preparing a protest to present on the morrow. Wilmot complained of discourtesy, and denounced the opposition as disloyal and unconstitutional. They asserted that quitting the council chamber was not unusual, and was not a concerted movement, and resented in decided language the charge of disloyalty,—amounting in sworn councillors to perjury, if rigorously construed. The governor afterwards explained that he had reference only to the particular instance, and not to their general intentions.

It had been publicly rumored that rather than allow the Appropriation Act to pass, several members had resolved to resign. Captain Swanston, less prominent in opposition, waited on the governor, and earnestly advised him to forward another set of estimates, prepared by Captain Swanston, for the approval of the secretary of state. He warned him that should he persevere a rupture would inevitably follow. In this interview the governor expressed his determination to proceed. He forgot, it would seem, some of those forms of civility which no man can safely neglect, and Captain Swanston left him with a sense of personal affront,—an immedicable wound.\*

In this temper the council met on the 3rd of October. Mr. Gregson called the attention of the members to a question submitted to Mr. Francis Smith, a barrister: Whether, as chairman of a committee, the governor had a deliberate and casting vote, and whether the quorum required by law at a meeting of council was requisite in committee; and thus whether the estimates were legally passed through the committee, the numbers present being less than one third, and the governor giving his double vote. Mr. Smith gave his

\* Letter of Captain Swanston to Lord Stanley.



opinion that the estimates were in law rejected instead of carried; but the chief justice considered the sitting of committee merely a convenient method to sift beforehand items afterwards to receive a legal sanction in the council. The attorney-general without notice was unprepared to give an opinion, and a motion of Mr. Gregson for delay was lost. The colonial secretary then moved the third reading of the obnoxious bill, when Mr. Dry rose to read a minute, signed by the members in opposition, objecting to the proceedings. This being rejected as irregular, Mr. Gregson proposed that the third reading should be delayed that the members dissenting might bring forward other estimates. In urging this motion he rebutted the "disloyal" imputation, and referred the governor to the unity existing in the country party in proof that inevitable necessity alone had prompted the co-operation of persons hitherto adverse. This motion being lost—before the Appropriation Act could be carried—the opposition quitted the council. Those remaining did not constitute a quorum, and the legislative session was abruptly terminated. The *Gazette* of November the 4th announced that Charles Swanston, Michael Fenton, John Kerr, William Kermode, Thomas G. Gregson, and Richard Dry, Esquires, had resigned their seats.

The obligation of the official members of the council to vote with the governor on all government questions had been long before decided. The non-official were only bound by their oaths to assist in all measures necessary for the good of the colony, but the nature of their powers and the proper mode of their exercise were subjects of dispute. Wilmot maintained that they were assisting in "a council of advice" on subjects submitted to their judgment, and were not qualified to question the general policy of the executive. All beyond a simple aye or no he deemed usurpation. Thus when they demanded papers, called for committees, and obstructed obnoxious measures by the artifices of parliamentary debate, they were charged with forgetting the duties of their office. These gentlemen, however, maintained that it was their duty to hold the executive in check on behalf of the people, and that whatever was not abstracted from their supervision by specific laws was proper for their consideration. The governor claimed a deliberate and casting vote; and thus one non-official member, by concurring with the executive, or even by abstaining from voting, neutralised the voice of the rest. The official members had no discretion allowed. Lord Stanley had ruled that, choosing to assume relations dis-



qualifying them to vote with the governor, they were perfectly free to do so; but having done so, they could not retain their employment. He alleged that there would be an end of official subordination, and that the public service would be brought into serious discredit by allowing a different course. He admitted that exceptions might occur, but their force was left to the judgment of the governor.\* This decision reduced the official debates to a mere pantomime, and a seven-fold vote would have better expressed the real character of the legislature than the disguise of separate suffrages. The chief justice was alone independent.

Having resigned their office, the *six* sent a letter of explanation to Lord Stanley. In summing up their complaints they asserted that they were called on to vote an expenditure the colony could not bear,—to anticipate a revenue higher than the customs department calculated on receiving; that they were denied information, although they were bound to deliberate; that they were expected to augment an alarming debt, and, when crime was increasing, to diminish police protection; that they were told by the governor he would carry the estimates by his casting-vote, before they refused to pass or had examined them; that the governor claimed power to borrow and spend without legislative consent; and finally, that discussion and enquiry were denounced as factious, unconstitutional, and disloyal: under these circumstances they resigned their seats, as the only open course, and submitted their conduct to the judgment of the Queen.

The opposition to the measures of Wilmot could not be in every instance justified if separately considered. But the colony discovered in the governor an inflexible determination to carry out the system of probation under the instructions of Lord Stanley. It was not possible to resist the secretary of state, the chief aggressor. The imperious tenor of his despatches taught the people that mere remonstrance would be unavailing. They could only arrest his attention by involving his agents in embarrassment. Repeated motions for the attainment of the same object are certainly incompatible with legislative order. A small party might retard the public business, and gain no good end by delay; but the exact line between fair and factious opposition is not easily discovered and can be often only ascertained by the result.

\* Despatch to Sir G. Gipps, Jan. 1st, 1845.

In this instance the object was clearly expressed in a rejected resolution:—"This council do decline voting the sums stated in the estimates laid on the table for the payment of the judicial, police, and gaol establishments during the ensuing year, as far as the expenses of the convict department with respect to those items are incurred. At the same time they desire to place on record an expression of regret that they should, by a sense of duty, be compelled to adopt any measure likely even temporarily to embarrass his excellency's government."\*

The cause of "the patriotic six," as they were called, was eagerly espoused by the colony. To supply the vacancies occasioned by their retirement was the labor of weeks. The governor defended himself from the charge of despotism, and declared that he would never interrupt the freedom of debate or attempt to force the compliance of the council. The opposition press held up to scorn those disposed to accept a nomination, and gentlemen who did so were assailed with scandalous abuse,—so easily is the noblest cause degraded by its friends. A more suitable expression of popular feeling was given on the return of Mr. Dry to his native town. He was escorted by a large concourse of people and with all the usual tokens of public esteem. The father of Mr. Dry was exiled during the political troubles of Ireland in the last century, and after a respectable career attained considerable wealth. The son, the first legislator chosen from the country-born, the colonists saw with pleasure consecrate himself to the cause of his native land. Mr. Gregson, the leader of the opposition, was honored in a more substantial form. A body of his admirers, by contributions of large amounts, raised a testimonial in the shape of 2,000 guineas, and plate with a suitable inscription. On no previous occasion had public sympathy so attended political controversy, and never was the legislative freedom of the country more earnestly desired.

#### SECTION II.

THE development of the new convict system gradually disclosed its adverse character, and excited general dissatisfaction.

\* Motion proposed October 28, 1845.



tion and alarm. The press warned the people that an attempt to change the whole aspect of the colony, from a free to a mere prison community, could only be resisted by instant measures. Abolition of transportation was spoken of, although as a contingency rather than an object desirable; and a few only of the colonists were anxious to speed that event. Among these was Mr. Pitcairn, a solicitor of Hobart Town, a gentleman never before prominent in politics, but eminently fitted to lead the community on this question. The first petition of a series unexampled in number was drawn up by him, and offered to the colonists for signature. All its allegations were supported by documentary evidence, drawn from the public records.

The location of the gangs exposed them every moment to public observation. A frightful sketch of their distribution was drawn by the author of the petition. "If," said he, "you look at the last map of Van Diemen's Land (Mr. Frankland's), you will see, at the entrance of D'Entrecasteaux's Channel, South Port. Here there are 500 men. Above, at Port Esperance, 400 men. Above this, along the banks of the Huon, the farmers begin. At Port Cygnet, up the Huon, there are 350 men; proceeding up the channel, you come to Oyster Cove, 250; Brown's River (just above North West Bay and five miles from Hobart Town), 500. Taking now the main road from Hobart Town to Launceston (the lands on each side being all settled, fenced, and improved), you will see Glenorchy (eight miles from Hobart Town), 150 men; Bridgewater (twelve miles), 100; Cross Marsh (thirty miles), 100; Jericho (forty miles), 100; Oatlands (fifty miles), 180; Ross (seventy miles), 120; and Cleveland (86 miles), 250. At Perth (one hundred miles from Hobart Town and nineteen from Launceston), there was another gang, which was recently withdrawn. Leaving the main road, there are at the Broad Marsh, 240 men; at Fingal, 400; at Buckland, 250; at Jerusalem, 500; at St. Mary's, 300; at Westbury, 200; at Deloraine, 300; at the Mersey, 200. In all, twenty gangs, comprising 5500 men."

The petition this statement sustained desired the most moderate changes:—the reduction of the number transported to Van Diemen's Land to the standard of 1840; the amelioration of the discipline; the relief of the settlers from the expense occasioned by the presence of prisoners; and the gradual and total abolition of transportation. It was not adopted at a public meeting, but was published in several newspapers, and deliberately signed by those who admitted



its facts and joined in its prayer. Upwards of 1,700 persons attached their names, including six non-official councillors, forty-one magistrates, and many other persons of influence.

The committee who took charge of the petition requested the governor would testify to the truth of its allegations and the respectability of the petitioners. In few words he promised compliance. He accompanied the petition with a despatch generally hostile to the object and unfriendly to the character of the subscribers, whom he described as men habitually factious, and who attributed their difficulties to any cause but the right. He asserted that their colonial property was trifling, and that they were encumbered with debt. He ascribed their discontent to insolvency, and their embarrassment to extravagance and speculation. He disputed most of their statements—distinguished between them and the more respectable majority against them—and stated that the number of signatures was due to the indolent facility with which such documents were signed. This despatch (August 1, 1845) was printed for the use of parliament, and soon came into the hands of the colonists. The absence of constitutional channels for the expression of their dissatisfaction led them to a measure which would otherwise be deemed an extreme one. Sir E. Wilmot was the patron of the Midland Agricultural Association, a body including much of the wealth and influence of the colony. They were convened by certain of the members, and the obnoxious despatch was laid before them. An animated and indignant debate terminated in the removal of Wilmot from his place as their patron. No prudent colonist would desire to see this precedent often followed. The distinction between a governor as the head of the social circle and as the chief of a political body will be more readily apprehended when his power shall be less absolute, and his secret advice no longer over-ride the wishes and interests of the people.

Having filled up the vacancies in the legislative council, Sir E. Wilmot called them together. It appeared that money had been provided and appropriated, and a pledge given to the bank to confirm the contract in the council. It was intended to issue debentures, and thus settle outstanding accounts. Messrs. Reed and Hopkins offered to this scheme a decided opposition, and being unsuccessful, they resigned their seats.

The English government at length agreed to pay £24,000 per annum towards the police expenditure, but at the same time excepted the waste lands of the island from the general

system. The land fund, elsewhere given up for the benefit of the colony, was assumed by the lords of the treasury. It was contemplated to employ convicts in clearing and cultivating, and by the sale of land to indemnify the crown for the outlay. The governor was authorised by the secretary of state to allot portions of land to ticket-of-leave holders,—a measure offensive to the settlers in general, and found to be impracticable.

The legislative council passed several acts of great colonial consequence. The Abolition of Differential Duties Bill (July, '46) exacted the 15 per cent. *ad valorem* on colonial commerce, in obedience to the policy of ministers. Thus the inter-colonial trade was loaded with burdens of great severity, and in many instances it was cheaper to send raw material to London and import English, than to exchange colonial manufactures. The measure was welcomed by some sheep-holding members as a tax on Port Phillip sheep, but the government disclaimed any other object than the increase of the revenue. A heavy retaliatory rate was then imposed by the New South Wales legislature. They however addressed their governor to obtain, if possible, a disallowance of the exactions of Wilmot. Messrs. Dunn, Orr, and Stieglitz entered their protest against the bill, and avowed the principles of free trade.

A bill for electing commissioners of paving and lighting for the city of Hobart passed the council (August, '46), and although disliked as an indirect scheme of taxation, was not unpopular. The first election under it occasioned a keen competition and considerable excitement. It was the first instance of representation, but the bill made no provision for a scrutiny, and the returning officer declared the poll against the protests of the defeated candidates. Many fictitious votes had swollen the numbers of their antagonists. The commissioners sat for some months, and gave exemplary attention to their duties; but when the time came for rating the city, the defect of their election appalled them. This objection was long foreseen. An election without a scrutiny might not be founded on one valid vote. The government, unwilling to admit the defect of the bill, did not attempt to reform its details, and at length it fell into disuetude.

A measure of still greater ultimate importance was enacted by the council, intended "to restrict the increase of dogs." A heavy tax was imposed on the keepers of this indispensable protector of house and fold. The multitude running about the streets was felt to be a nuisance, and the destruction



of flocks required some check ; but the frame-work of the bill was objectionable, and the charge excessive. It will be seen hereafter that the tax occasioned the most serious disputes.

The administration of Sir E. Wilmot was, however, suddenly brought to a close. Reports, forwarded by Mr. Forster, and adopted by the governor, extolled the outlines of Lord Stanley's system, while events were constantly occurring which, amply sustained by respectable testimony, demonstrated its sad consequences. Evils of a serious nature were extensively prevalent,—some, inseparable from every scheme of penal discipline, others aggravated by the excessive dimensions of the probation system, and not a few the result of the failure of demand for labor. The worst effects of sensuality were the most alarming feature of the system, but even they were probably only more flagrant because the extent of transportation gave them a wider range. Remedial measures demanded an outlay and inspection which the instructions of the home government had prohibited in language the most distinct. The ministers, having tied up the governor's hands, complained that he had carried economy to a pernicious extent, and in reporting the state of the prisoners, had passed over important questions. But those who examine the despatches of Wilmot with care will be compelled to question the accuracy of these complaints. There is scarcely an evil which the progress of the scheme unfolded that he did not admit and illustrate. These evils he thought partly accidental and partly inevitable in all penal schemes ; but still he maintained that, with all its defects, the probation system, as such, was the best ever devised by the British ministry. Lord Stanley indeed stated that in "five reports from Captain Forster and seventeen despatches from Wilmot, he had either received no intelligence or that their remarks were casual, slight, and few." Thus at the end of three years he found himself destitute of any clear understanding in reference to the conclusions which Mr. Forster, as the immediate agent, or the governor, as the chief superintendant, must have formed respecting the soundness of the principles or the wisdom of the plans which both had been called upon to administer (September, '45). It was thus apparent that the colonial-office held the governor responsible not only for obedience to positive instructions, but for their results ; and that, in the event of a sacrifice being required, the officers on the spot would be devoted : and so it happened.



In closing the session (September, 1845) Sir E. Wilmot announced his recall. Although not usual then to address the council, he stated that he could not permit the members to disperse without acknowledging their assistance. A delusion for a time might expose a public man to popular injustice; but however misjudged, either during his life-time or after death, his character would require no other vindication than truth would afford. He informed them that his recall was not occasioned by his differences with the late members, but was ascribed to an imputed neglect of the moral and religious welfare of the prisoners; and he added, that the memory of their kindness would remain with him during the short remainder of his life.

Mr. Gladstone, who had received the seals of office, conveyed to Wilmot the notice of his removal. The despatch is a singular example of its author's mental habits. While he complained that the governor's statements were obscure, he gave his own views in odd and scarcely intelligible terms. Thus, the governor had adverted to the moral condition of the convicts "in a manner too little penetrating:" he had not made it a point of his duty "to examine the inner world of their mental, moral, and spiritual state." Mr. Gladstone charged him with neglecting the vices of the stations—an error in judgment so serious as to render his removal imperative. These whimsical terms of reprobation excited universal astonishment. Practical men felt that the knowledge of the thirty thousand prisoners except by their conduct, to be ascertained by collating statistics, was rather more difficult than the hopeless task of similar investigations in ordinary life. The English press, with some truth and bitterness, described such demands as an encouragement of hypocrisy and religious pretence. No wise or good man will discredit religious teaching, but all such will look with suspicion, if not dread, and even disgust, on the statistics of prison piety—generally false and designing, in proportion as it is loud and ostentatious. The defects of the governor as a legislator were not taken into account. Mr. Gladstone indeed attempted to balance with much precision the merits of the patriotic six. He admitted that advice and assistance to the Queen might sometimes take the form of strenuous opposition to the executive. He denied the distinction between the offices of an elective and of a nominee legislator—between a council of advice and a representative legislature. He doubted whether Wilmot had properly calculated the difficulties which would

follow the passing of the estimates, or the sympathy which the six would receive from the people. He censured mildly the accusation of disloyalty, but at the same time he stated the quarrel with the six was in no degree the cause of the recall.

In his last address to the council Wilmot alluded to the benign influence of time on a slandered reputation. This was soon after explained. Mr. Secretary Gladstone had accompanied the recall with a private letter which stated that rumors reflecting on the governor's moral character had reached the colonial-office, of a nature to hinder his future employment. Nothing specific was stated, and no clue to enquiry given. Rumors had been long current, and they were spread with activity. The *Atlas*, a Sydney journal, compared the governor to the tyrant of Caprea, and referred to his private habits with expressions of disgust. Remarks of a similar tendency appeared in a London periodical. It stated that the conduct of Wilmot excluded the respectable inhabitants of Hobart from his society, and made it impossible for ladies to enter his house. This was instantly rebutted by Sir John Pedder and other official persons, who declared their entire disbelief in these charges.

Wilmot conjured Mr. Gladstone to state the time, place, and circumstances, the names of his accusers, and the exact nature of their imputations. In reply he observed that the persons who mentioned these rumors did not profess to support their credit by any statement of particulars, but to found them on general notoriety. He added that it "was not in his power to convey what he had not received." In the House of Commons a fuller explanation was afterwards given, in a discussion raised by Mr. Spooner, a Warwickshire member. It was then stated that the authors of the report were persons in the service of the crown, both in England and in the colony, and its effect, that the accused was living in scarcely concealed concubinage with several women. These preposterous imputations melted away the moment they were touched. Sir Robert Peel, an old neighbor of Wilmot, was highly displeased with the interference of Mr. Gladstone, and pronounced the charges unworthy of belief. The eldest son of Wilmot appealed to Earl Grey for a formal vindication, but he declined expressing an opinion, although earnestly pressed; and excused himself by alleging that, independently of this charge, there was ample justification of the recall. It would have been no great stretch of generosity had a minister admitted that rumors set up as a bar to



employment were no longer barriers to the confidence of the crown. Mr. Chester, a brother of Lady Wilmot, transmitted an address\* presented to Sir Eardley to the Bishop of Tasmania, for his remarks. He replied he could not tell to what reports it alluded, and could not contradict them; but that rumors of the kind had fallen under his observation which he had proved to be groundless: charges had been whispered, but none had been substantiated (May, '47).

The reports in disparagement of Wilmot originated in the freedom of his address—perfectly innocent in itself, but liable to misconstruction. The credit they received depended entirely on the party sympathies of the listener, and they grew as they went. No one, however, attached much importance to them on the spot. Mr. Gladstone was condemned for entertaining them. He seems more worthy of censure for his indefinite method of stating their nature and the authority on which they rested. The moral character of a governor is of moment to a colony, and a just consideration in his appointment; but when assailed it should certainly have all the protection of a full and open enquiry.

No governor ever was more unfortunate in his political position. He could only tax and restrain. There was nothing in his gift. To the substantial difficulties of the people around him he was unable to offer more than those general assurances which often exasperate rather than console. The state of religious parties increased his disquiet. He had to adjust the claims of churches to spiritual authority. In declining to erect ecclesiastical courts Wilmot not only gratified many, but he followed the direction of his legal advisers.

Sir Eardley Wilmot, like most governors, considered himself the servant of the crown, restrained in his discretion by absolute and specific instructions. Had Lord Stanley acted with prudence he would have left much to Wilmot's judgment; but just before he had dilated with vast perspicacity on the tendency of governors to act in behalf of the colo-

\* The following is the address, to which 250 names were appended:—"To Sir J. E. E. Wilmot, Bart.—We the undersigned, inhabitants of Van Diemen's Land, having heard that your recall has been influenced by reports injurious to your moral character, during your administration of the government of this colony, deem it to be a duty which we owe to truth and justice to express our unqualified contradiction of those reports, and we feel the more imperatively called upon to do so, from the fact of many of us having differed in opinion upon various measures of your government. Upon the occasion of your retirement into private life, we have to assure you that you carry with you our best wishes for your future welfare."



nists, to forget imperial interests, to misapply the funds and pervert the labor belonging to the crown. The precision of his injunctions left no alternative but to obey. Had Wilmot at once declared the impracticability of Lord Stanley's schemes he might have been recalled, but the responsibility of an utter failure would have rested with his chief. The interested reports of his subordinate officers unfortunately enabled him to hold out hopes of success which were never realised and to furnish an excuse for his condemnation. The governor was impatient of contradiction. He had been accustomed to debate; but the sarcasm which falls harmless on the floor of St. Stephen's Chapel, in a colony cuts to the bone. He forgot that the head of a government can hardly say too little of men or measures. In a conflict of words, to an executive chief victory and defeat are alike pernicious.

The usual order had been given that the governor, during his residence in the colony, should enjoy the complimentary distinctions of office. It was commonly understood that his stay would be prolonged; but he died soon after his retirement (Feb. 3, 1847), in the sixty-fourth year of his age. The treatment he had received from the colonial-office, and his death far from the honored sepulchre of his fathers and the scenes of his early political fame, produced a general sentiment of regret. All the houses of business showed marks of mourning. A public funeral, attended by the administrator and the newly-arrived governor, was thronged by the citizens. It had been officially arranged that, except the ministering priest, the clergy of all denominations should walk in their several classes, but in one body, and the arch-deacon, the moderator, and the vicar-general, as representatives of the three endowed churches, abreast. The Anglican clergy evaded this plan by stepping up before the coffin. When, however, the bearers were in motion, the catholic priests, by a rapid evolution, shot a-head of the procession. An ornamented Gothic tomb was erected in St. David's burial-ground to the memory of Sir Eardley Wilmot by subscription. It stands near the highway. His remains were interred close to the tomb of Collins.

Sir John Eardley Wilmot was descended from the ancient family of Eardley of Audely, Staffordshire. He was grandson of Wilmot, lord chief justice of the court of common pleas—a judge celebrated for justice and piety. Sir E. Wilmot was twice married,—first to Elizabeth, daughter of Dr. Parry, of Bath; and afterwards to Elizabeth, daughter of Sir R. Chester, of Bush Hall, Staffordshire.

Charles Joseph Latrobe, Esq., Superintendent of the Port Phillip District, and subsequently first governor of that territory, now called Victoria, superseded Sir E. Wilmot (October 13, 1846). During his short stay as "administrator" he was employed in a careful scrutiny of the probation department. In performing this difficult duty he displayed exemplary activity and decision. He resolved to remove every officer chargeable with incapacity or neglect, and thus many were dismissed. This promptitude exposed him to imputations of harshness; but although it is probable he did not wholly escape errors of judgment, the chief acts of his administration were amply vindicated by the facts he saw. The opinions he expressed sustained the colonial impressions respecting the convict system. While he suggested many improvements in its details, he concurred with the general wish for its extinction. Mr. Latrobe never met the legislative council; and his government being limited to the established routine, left nothing to record.





# **HISTORY OF TASMANIA.**



**FROM 1847 TO 1852.**



## FROM 1847 TO 1852.

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### SECTION I.

SIR WILLIAM THOMAS DENISON, KNIGHT, Captain of the Royal Engineers, presented his commission, January 26th, 1847. He had been employed in the dock-yards, and in the survey of important public works. His eminent abilities in a department connected with the employment of prisoners, not less than his respectable connexions, led to his nomination. His professional habits had not qualified him equally for civil affairs; but the chief object proposed by the minister, Mr. Gladstone, was the better disposal of prison labor, and the more effectual control of the convicts. Sir William entered on his office with less acclamation than usual. The changes had been too rapid and unfortunate to encourage much enthusiasm.

Before his embarkation the secretary of state instructed Sir W. Denison to arrange the dispute with the late councillors, and the claims of the gentlemen who occupied their places after their resignation. He was informed that the conduct of both sets of legislators had received the royal approbation. It was left to his discretion to select six out of the whole number to complete the council. They were summoned to the government-house to hear the minister's decision, and were requested to decide among themselves who should be honored with a seat. This experiment failed. An altercation ensued, and some quitted the conference. The "six" adhered to each other, and Sir W. Denison ultimately declared the appointments of Wilmot were disallowed, and re-appointed the "patriotic six." The gentlemen rejected were advised that they held their office until superseded by commands under the sign-manual. In this opinion the chief justice concurred; but, pursuing the scrutiny, it was found that some nominations of Wilmot had been informal, the



instrument not stating to whom they succeeded. Their claims being quashed by this discovery, the "patriotic six" were again appointed in succession to each other,—a transposition required by the law. At this stage, however, Mr. Orr, who entered the council some time after the rupture, produced his appointment, which, unlike certain others, was expressed in the legal form. Thus again all the previous proceedings were quashed; and the governor, unable to unravel the difficulty, dismissed the council, to await instructions from Downing-street, or a warrant for the nominees under the sign-manual of the Queen (July, 1847). Thus during 1847 there was no legislature sitting, but at length the *Gazette* announced that the Queen had reinstated the original six (1848).

It has been seen that under the government of Sir E. Wilmot an act was passed to restrict the increase of dogs, and another levying 15 per cent. duties. The owners of dogs were required to take out a license, and the proceeds of the tax were carried to the general revenue. Some of the settlers never complied with this ordinance, and others paid under protest. According to the opinion of several lawyers the council by this enactment had exceeded its powers. The act of parliament by which the council was constituted contained a provision to the effect that a tax should be levied only for local purposes, "to be distinctly and particularly stated in the body of the bill." It was contended that the restriction was violated, since the Dog Act contained no specific appropriation, and the amount was carried to the general revenue. The government, willing to avoid the trial of this point, did not hasten to enforce the penalty. It was understood that Judge Montagu had not obtained a license for dogs on his premises, and Mr. Morgan, then editor of the *Britannia*, announced to the government that he was an owner of dogs, that he had paid no license fee, and intended to pay none. The chief constable was directed to recover the penalties. Mr. Morgan being fined, appealed to the quarter sessions, and then to the supreme court. The judges, having heard the arguments of counsel, declared that the Dog Act imposed a tax and exceeded the powers of the council. They therefore annulled the decision of the inferior courts (Nov. 22, 1847).

The views which dictated this judgment affected a more important act—the Differential Duties. Several merchants paid these charges under protest, and entered their suit for recovery. A revenue of £20,000 per annum was thus in

peril. It was stated by the governor and crown lawyers that the judges themselves had passed the lawful limits of their jurisdiction, annulled the whole body of colonial law, encouraged opposition to the government, and exposed its agents to vexatious prosecutions. The governor was determined to resist their judgment. The warrants for the members of the council had not arrived. Thus recourse to the legislature was impracticable, and the most obvious remedy was the removal of the judges, and the substitution of others, whose opinions were known to agree with the executive. The judges were charged, therefore, with a neglect of duty in omitting, as authorised by the law, to certify illegality in the Act prior to its enrolment; and by permitting the question of an act of council, they were said to override the legislature.\*

\* The council derived their powers from the Act 9 of George IV., c. 83. They were permitted to enact ordinances "for the good government of the colony," but they were forbidden to impose taxes, except for local purposes; and they were ordered to state "distinctly and particularly in the body" of every law the purposes to which the tax should be applied; and thus to prevent the evasion of the prohibitory clause intended to protect the subject. It was not worth while to enquire whether the view of the judges of the legality of the act in the case of *Symons v. Morgan* was in harmony with the parliamentary act, because the question merged in one of much greater importance—Whether they could take that act into consideration at all? It was of far more consequence to know whether the colony had a remedy against the usurpation of the legislative council, than to decide whether Messrs. Horne and Fleming were better lawyers than Sir John Pedder and Mr. Justice Montagu. "The powers of a subordinate legislature," says a distinguished writer, "are expressly or tacitly delegated by the supreme government. In order, therefore, to determine whether an act of the legislature has a binding force, it is necessary to look at the extent of the delegation. If the act be not within the scope of the delegation, it is without binding force, and can be annulled before a competent tribunal" (Lewis on Dependencies). Sir Wm. Denison stated that the silence of the Judges for fourteen days after the act was passed,—whatever might have been the cause of that silence—ignorance, indolence, sickness, or corruption,—rendered the most unlawful stretch of power on the part of the council, including the total subversion of all the limitary clauses, binding upon the colony, and if sanctioned by the Queen, through the same ministerial inadvertence or corruption, binding for ever. Judging of the intentions of parliament by the general character of colonial legislation and by the cautious wording of this act, it could scarcely be imagined that they suspended the public safety on such a thread. That Englishmen should be deprived of their rights, without the possibility of appeal, by the inadvertence of a judge—not sitting in a court of justice, but in his own chamber—would be to legislate by accident. Sir Wm. Denison relied on the despatch of Sir George Murray (1828), which accompanied the Act 9 Geo. IV., known as the "Huskisson Act." The former practice was to require the governor to submit to the judge the draft of a bill before it was laid upon the table of the council chamber, no principle of colonial law being more "firmly established than that a colonial legislature cannot enact statutes repugnant to the law of England." The judge (he said) "might have found himself often required in open court to deny the validity of a colonial ordinance, on the ground of repugnancy." By the Act in question "pro-



Pending this dispute, a creditor of Mr. Justice Montagu sued him for £200. The privilege of his office presented a legal obstacle to the suit. This being decided by the chief justice, the creditor applied to the governor for relief. Mr. Montagu alleged an understanding, which in equity released him from immediate liability. The governor charged him with perverting the protection of his office, to defeat his creditors, and removed him. Mr. Horne, the attorney-general, who framed the acts repudiated by the judges, was appointed to succeed Judge Montagu, and it became a question whether his opinion would send the merchants out of court. The registrar of the supreme court was called before the executive council, and questioned on the point. He stated that in the event of a division of opinion on the bench a verdict for the plaintiff would stand. To the suspension of the chief justice the executive council were opposed, and Sir Wm. Denison therefore requested the judge to relieve the government by asking leave of absence. To this he replied in terms suited to the respectability of his character. "Were I," said his honor, "to accept your excellency's proposal, I should, it appears to me, be for ever after degraded, and, *ipso facto*, render myself unworthy of holding the lowest office or employment which it is in her Majesty's power to bestow on a subject."\* At this stage of the proceedings the warrant constituting the legislative councillors reached the governor, and the opinion of the chief justice was of less moment to the executive.

It now remained for the governor to annul either the laws opposed to the provisions of the parliamentary act, which declared the taxing clauses illegal, or to subvert those restrictions by declaring them inoperative. He chose this last course. The Doubts Bill declared that an ordinance once enrolled, whatever its provisions, or however repugnant to common law or parliamentary acts, should be held binding on the court; and although its rejection was proposed by the chief justice and five other members, it passed the legislative council.

vision was made for fully learning the views of the judges upon the law, and for preventing their refusing to execute any law that may be passed after a full consideration of their objections." Thus it was intended to "combine, as far as possible, the advantage of a strict observance of a general rule, and a harmony between the judges and the legislature." It was therefore clear that the power given to the judges to stop the enforcement of any illegal ordinance continued until their objections—whenever and wherever they might arise—had been "fully considered."—*Hobart Town Courier*.

\* Parl. papers, July. 1848,



That the "Doubts Bill," so called, was inconsistent with the limitations of the council, has been virtually determined by a retrospective clause in the recent constitutional act, which cures the defect of these taxing clauses, and takes the question of legality from the future judgment of the court. By the act of 9 Geo. IV., sec. 83, the governor possessed powers sufficiently ample to pass, without notice or delay, any measure, and to adhere to its provisions in a pressing emergency; but the prohibition of taxes, for all but strictly local purposes, was peremptory and explicit.

An instance of rapid legislation contemplated by the act, occurred (1843) when Dr. Turnbull held the office of sheriff. More cautious than his predecessor, he closely examined his commission, and discovered that the seal of the colony had been attached, and not that of the governor, as required by the charter of justice. This error had been made in successive commissions for many years. Every execution—criminal or civil—had been therefore illegal. At one sitting of the council the act of indemnity was passed, and all proceedings affected by the mistake were declared valid. The propriety of this promptitude was indisputable.

The chief justice left the representation of his conduct to the governor. His treatment was the subject of keen censure in the commons; and by an unpublished despatch—the nature, not the terms of which transpired—Sir Wm. Denison was informed, and through him, the chief justice, that his conduct to this judge was decidedly reprehended by the crown. Mr. Horne's appointment and the removal of Mr. Montagu were confirmed. Mr. Justice Montagu was an acute, eloquent, and impartial judge, but passionate and eccentric. His imprudence exposed him to a proceeding which, in the circumstances, it is difficult to approve, and, on general principles, not easy to condemn. The chief justice stood still higher in public estimation. For nearly thirty years he occupied a station of awful responsibility with a reputation unsullied, in a court where every variety of legal knowledge has been in demand and a vast amount of toil endured. Among the blessings which the British constitution bestows foremost of all is the freedom of the judgment-seat; and few political faults are less capable of palliation than a deliberate attempt to subject a judge to the influence of the executive.

A minute addressed to the legislative council charged the merchants with forgetting the duty they owed to society, when they offered resistance to the tax. They, however,

maintained that every illegal demand is spoliation, and claimed a right to protect themselves and the public from its operation. Fifteen hundred persons signed a petition deprecating the interference of the executive with the supreme court. They asserted their conviction that the removal of Judge Montagu was occasioned by his decision on the Dog Act, and the desire to replace him by a more pliant judge. These various remonstrances had no effect on the ministers, and the entire course of the governor was approved, except the attempted coercion of the chief justice. The position of the government was one of considerable embarrassment. It was the unquestionable right of those affected to oppose the execution of illegal ordinances; but no blame would have rested with the governor had he amended them without removing the land-marks of the colonial constitution.

A minute acquaintance with colonial history would justify the belief that appeal to Downing-street against the conduct of governors is utterly futile. When the dispute is between persons high in office the established policy does not predicate the result; but when a mere colonist complains he will find no precedent in Australian experience to cheer him in his task. Gross instances of oppression have not infrequently occurred; but in the Australian journals of half a century no example is recorded of a governor's recall on such grounds, or of such a censure on his conduct as might influence the habits of colonial rulers. An opposite course would be inconvenient—perhaps dangerous. As a choice of evils, it is better that the colonists should despair of redress than to encourage the discontented to harrass the representative of the crown. A result so invariable, however, proves that a colonial-office cannot protect the Australian people. This futility of appeal is more striking when the local authorities are protected by a laborious despatch writer. The subtle arrangement of facts and inferences suggests without appearing to dictate the judgment of the office. These papers first fall into the hands of subordinate officials, who feel a natural antipathy to colonists, whose established character is turbulent, rapacious, and democratic. In the multiplicity of business, comprehending the affairs of forty colonies, the responsible minister can know little of details, and that little he must rapidly forget. Thus, when a question is proposed, he asks time to refresh his memory. A pungent passage or epithet, wholly irrelevant to the real merits of the dispute, is drawn from these documents. It was thus when the quarrel between the executive and judges was debated in the



house. The minister, having read in a despatch that the decision of the judge would disorganise the body of law, represented the colony as a scene of turbulence, when not a single step had been taken but the courts of Westminster would have approved. But the house was equally ill informed. It readily acquiesced: the conversation dropped, and the despatch triumphed. No governors have stood so high in the colonial-office as despatch writers; whether that ability in epistolary correspondence implies general superiority, or that they beguile the minister of his judgment by the subtlety or wisdom of their political disquisitions.

The petitions for representative government, repeated for more than twenty years, and which strongly interested the sympathy of all classes, were renewed with increasing hope of success from 1846 to 1850. The ministers, though admitting the abstract value of the privilege, hesitated while the great preponderance of convicts seemed to require an absolute authority. This feeling was not overcome until the accession of Lord Grey, who saw no danger in conceding to the free population the common rights of Englishmen. A variety of plans were submitted at different times to the parliament and ministry, to secure colonial representation. Mr. Joseph Hume suggested (1832) the admission of a certain number of representatives chosen in the colonies to seats in the House of Commons; in all nineteen, one being for Australia,—a measure once suggested for the old American colonies; but the distance in both cases, and expenses of transit, would not easily have admitted effective representation or perfect responsibility. Sir John Franklin suggested (1839) a legislature, to consist of twenty-one members, one third nominated by the crown, and the remainder elected by persons holding the qualification of common jurors. He gave a generous testimony to the intelligence and probity of the settlers, and alleged that they would bear comparison with corresponding classes within any dominions of the crown.\*

In 1843 the legislature of New South Wales was constituted. Originally a nominee council, the popular element was infused by two thirds being elective members. A civil list was reserved, and the disposal of territorial revenues withheld; but the partial liberty enjoyed was used with discretion and effect. The bill enjoined the establishment of district councils, authorised to superintend internal affairs,

\* Despatch, August, 1838.



and to fulfil many of the functions of municipal bodies. They were, however, never called into action. The scattered inhabitants found it difficult to assemble, and more so to reconcile their neighbors to local taxation. The machinery of the councils was set in motion only to defeat their design. Thus the legislative body retained in its hands the whole power which it had been intended to balance and check by the petty councils. Port Phillip, however, then a part of New South Wales, but more distant from the metropolis than England from Rome, was represented in a council sitting at Sydney. The loss of time required disinclined most gentlemen to undertake the representation, and those chosen were chiefly resident in New South Wales proper. Their numbers were too small for effectual action, and their sympathies were divided between their constituents and their neighbors. The revenues raised at Victoria were expended to some extent in the elder city, and the superintendent of Port Phillip had little influence and less power in the government. The popular dissatisfaction, which led to some unavailing petitions to the crown, took a curious form. Thus, in 1848, the electors met at the hustings and discountenanced the appearance of a candidate, and after waiting an hour, the returning officer announced that no member had been returned. On meeting for the election of a member for the city Earl Grey was chosen. The governor and superintendent considered this proceeding a disgraceful farce. The law officers could not question its legality, and the secretary of state was for two years member for Melbourne, without, however, taking his seat. Mr. Westgarth, a merchant of tried intelligence and public spirit, was chosen afterwards, and was presented to the house "in the room of the Right Hon. Henry Grey, Earl Grey."

Sir Wm. Denison was instructed to report on the subject of an elective legislature for Van Diemen's Land. He furnished Lord Grey with various opinions and suggestions. He had recommended a frame-work, the counterpart of the New South Wales assembly, only, however, that he deemed it undesirable for colonies so contiguous to differ in their institutions. The experience of the Tasmanian legislative council had, he asserted, assisted him in forming an opinion on the character of the people. "When we see," said Sir William, "the low estimate which is placed upon every thing which can distinguish a man from his fellows, with the sole exception of wealth; when we see that even wealth does not lead to distinction, or open the road to any other

ambition save that of excelling in habits of self-indulgence,—it can be hardly a subject of surprise that so few rise above the general level, or that those few owe more to the possession of a certain oratorical facility than to their powers of mind or the justness of the opinions they advocate.” “There is an essentially democratic spirit, which actuates a large mass of the community; and it is with a view to check the development of this spirit that I would suggest the formation of an upper chamber.” Sir William Denison suggested that bishops might be members of an upper house, and certain *ex officio* representatives of government; the rest, whether nominated by the crown or elected by the people, to hold their seats for life.\*

By a despatch to Sir Charles Fitz Roy, Earl Grey expounded a new constitutional system for the colonies. It was zealously opposed in New South Wales. The people complained that the change in the constitution without their consent was an infringement of their vested rights, and disrespectful to their legislature. They objected strongly to a plan which made the district councils the electors of the assembly. They repudiated the statement that their legislature had absorbed all the powers of “the colonial state,” and the checks and balance contemplated by the original constitutional act. These views were sustained by the legislature itself. The idea of two chambers was approved by the majority, but most elected members were against it.

The plans of Earl Grey and the correspondence and petitions they produced were referred to the committee of the Privy Council, and the report adopted recognised all the great principles of British government except the full control of the expenditure (1849). This able paper recommended legislative councils for all colonies capable of supporting a civil list, one third nominees, and the remainder chosen by the people. The division of the legislature into separate chambers it resigned to the judgment of the colonies. It suggested a federal assembly for the general interest of the Australias, having its action closely defined. The “House of Delegates,” to consist of not less than twenty nor more than thirty, were distributed—to each colony two, and one additional for every fifteen thousand souls. This plan of government was differently regarded in different colonies. The elder condemned its restrictions: the younger rejoiced in the prospect of new franchises, and trusted to time to enlarge

\* Despatch to Earl Grey, 1848.



their liberties. The general opinion of intelligent men was favorable to the division of the legislature, but the colonies were not capable of supplying the elements of nobility. Some aspiring persons desired a little house of peers, others the appointment of senators by the crown, and for life: a greater number were convinced that the legislature should be elective throughout. The social equality of settlers who landed together could not be forgotten in the diversities of their colonial fortune. The first collision of opinion would bring the machinery of double chambers to a dead lock, and no interposing power could adjust the dislocated frame-work. A stoppage of supplies would follow the first impulses of resentment. In English representation it is the last remedy, but then it betokens the dismissal of a minister or the downfall of a dynasty.

The colonial press generally approved the ministerial bill, not as a measure approaching perfection, but for some favorite object it was calculated to hasten. It was hailed at Port Phillip because it secured separation from Sydney; at South Australia, as certain to terminate the ecclesiastical endowments; and in Van Diemen's Land it was welcomed, with all its faults, as the engine sure to destroy transportation. Thus the Colonial Reform Society, which attempted to defeat the government measure, found little sympathy beyond New South Wales, where the change gave nothing. The ministers interpreted the satisfaction of the colonies as a testimony to their skill, not detestation of their government. The real cause of colonial delight was the severance of their chains, and the certainty that when broken all the power of Europe could never renew them.

The bill suffered some mutilations in its passage to the throne. The federal clauses were expunged. The local governors were opposed to the establishment of an assembly of delegates, which would have overruled their individual policy. They were fearful of compromising their revenues by permitting to New South Wales the preponderance of members. These objections, not indeed without weight, and, still more, the jealousy of the conservatives of an organisation which seemed but a prelude to independence, despoiled the measure of a provision which, however modified, must be ultimately restored. A reduction of the franchise of the bill from £20 to £10, nearly equal to household suffrage, was, however, the most considerable change. It was suggested by Mr. R. Lowe, to bear down an opulent emancipist interest in New South Wales. It was expected to give



irresistable power to that class in Van Diemen's Land. The bill was carried through the lords by a trifling majority in a thin house. The fate of a young empire but slightly moved the British peerage. It received the royal assent, August 5th, 1850.

When the bill arrived the joy of Port Phillip was unbounded. Several days were devoted to processions and feasting. Numberless devices were exhibited, displaying the political bias of the people. Many thousand pounds were spent in the festivities. A similar though less magnificent display was made in Van Diemen's Land. All ranks were inclined to forget their differences, and public dinners, at which many hundreds were guests, celebrated the constitutional victory.

Lord John Russell, on the second reading of the bill, explained his opinions, which, whether or not consistent with the ministerial measure, were worthy his station and political renown. "I anticipate with others," he said, "that some of our colonies may so grow in wealth and population that they may feel themselves strong enough to maintain their own independence in amity and alliance with Great Britain. I do not think that that time is yet approaching. But let us make them, as fast as possible, fit to govern themselves. Let us give them, as far as we can, the capacity of ruling their own affairs. Let them increase in wealth and population; and, whatever may happen, we of this great empire will have the consolation of saying that we have increased the happiness of the world." Such sentiments tend to extinguish the desire to quit a political connection rendered honorable by terms so nobly expressed by the first minister of the crown, and which, if fairly carried out, will make the colonies cling with fondness to a nation so magnanimous as to greet them with applause.

In 1846-7 important additions were made to the educational means of the colony. An episcopal institution, called Christ's College, was formed at Bishopsbourne. Scholarships were founded by the medical, military, and clerical professions, and divinity fellowships endowed (1846). Lord Stanley recommended the establishment of a proprietary high school, open on equal terms to all denominations, and promised the patronage of the crown. The site reserved for this purpose at Hobart Town was granted by Sir W. Denison to the episcopalians, for the Hutchins' school. This alienation was deemed unjust. Instead, however, of wasting time in unavailing complaints, the friends of education were convened by

Mr. H. Hopkins, an opulent merchant, when a prospectus was submitted by the Rev. Dr. Lillie and J. West. A thousand pounds were subscribed in the room, and in five weeks £5000 (1847). The first conspicuous object seen by the stranger on entering the river is the High School of Hobarton,—an edifice erected amidst enchanting scenery, on a site granted by the crown, and possessing architectural attractions which have yet to be equalled in this hemisphere. The institution is managed by a council of nine, chosen by the shareholders. The Rector, nominated by the London University, was the Rev. J. B. Froude, author of the "*Nemesis of Faith*,"—a publication which led to his instant resignation. James Eccleston, Esq., appointed in his stead, survived the opening of the school only one month. A thousand pounds were subscribed for his widow.

Thus the activity of private zeal effected the objects contemplated by legislative interference. The growth of population will give ample scope for these various institutions, and extinguish all but a wholesome rivalry.

## SECTION II.

It now remains to record the most important colonial agitation of modern times. The opposition of Van Diemen's Land to a system reprobated by mankind—too long despised—awakened everywhere resistance to transportation; and, assisted by the discovery of gold fields of vast extent and opulence, will change the penal policy of the British empire.

In the progress of the struggle all classes ranged on the same side. Parents thought of their children—patriots of their country. Every legislature of this hemisphere has expressed the popular will and demanded abolition, and the final triumph only awaits the fiat of the crown. The steps of the colonists have been cautious and deliberate, their perseverance and energy indomitable! Their success has been chequered by frequent disappointment, but never was a battle more nobly fought—never was there a cause more worthy of triumph.

Mr. M'Lachlan, long a resident in Van Diemen's Land, judged the plans of Lord Stanley by the test of experience, and warned the minister of their too certain results. Other colo-



nists in England corroborated his views and enforced his representation. Mr. Smith, a colonist of long standing, obtained an audience at Downing-street. He described the social dangers which environed the settlers. "I confess," said the noble lord, "that you are in an awful position."

The representation forwarded by Mr. Pitcairn and his coadjutors was intrusted to Mr. M'Lachlan's care. The press of England took the side of the oppressed, and the inexorable office was obliged to listen, to argue, and retract.

There was, however, one result of his scheme which moved the susceptibilities of Lord Stanley himself. He shrank from the "intolerable evils of a breach of faith" with the exiles of Great Britain. They had been encouraged to expect high wages and ready employment. Such was the fair reward offered. Far other was their actual lot. "Thousands of prisoners," said an official representation, "are going about idle, polluting the atmosphere in which they move. Is it to be wondered at that the Pentonville men should fall?"\* The extreme social degradation and demoralising contamination to which they were exposed in Van Diemen's Land, and the disheartening difficulties they had to contend with, were utterly incompatible with the spirit of Lord Stanley's despatch.† This "breach of the public faith" was promptly repaired by a new series of projects.

Sir Charles Fitz Roy and Sir E. Wilmot, assisted by Mr. Latrobe, were instructed to select a site whither to send exiles, there to remain while awaiting hire or voluntary emigration: conditional pardons which gave liberty in Van Diemen's Land, were made available in all the colonies.

The formation of a new settlement was the grand expedient. Vessels bringing convicts to Van Diemen's Land were to convey ticket holders to North Australia. Happily for the world this project was defeated. A squatter hired exiles in England, with the sanction of the minister. A demand for labor sprung up. Sir George Gipps informed the secretary of state that from Moreton Bay to Melbourne exiles would be welcome. This Mr. Latrobe confirmed (1845). The settlers associated to bring expirees from Van Diemen's Land. Many shiploads were deported at £1 per head. Thus the difficulty appeared at an end. The *Maitland*, engaged for North Australia, was diverted to Port Phillip. The men were promptly employed. The considerable flockmasters

\* Mr. Boyd, August 29, 1845.

† Dr. Hampton to the Commissioner of P. P., Aug. '45.



were desirous of a regular supply, while the colonists in general were far less cordial. Opposition was, however, languid; and the occasional apathy of the public and the indecision of the press were construed as assent.

While the home and colonial governments were constructing and dissolving systems, the idea of abolition was started by the press. "The settlers," said the *Examiner*, "may not be prepared for this. Our own impression is that they are not; but it is our firm opinion that at no distant day the unanimous voice of the community will say, in a tone not to be disregarded, cease transportation for ever." (March, 1844.) Events a few months after still more forcibly pointed to this issue.

Mr. M'Lachlan, in a letter to Mr. Gladstone, put the case of Van Diemen's Land in a striking aspect. "Shall the fairest isle in the south be converted into one huge gaol? shall the free inhabitants be made the passive instruments of punishing these criminals? Is this the only capacity in which the British government will recognise the free colonists? The petitioners have laid their case before the legislature. They trust they have not appealed in vain—that they will not be driven from a land where the best days of many of them have been spent" (February, 1846).

The petition prepared by Mr. Pitcairn was presented in the lords by the Marquis of Lansdowne (March, 1846). In remarking on its contents, Lord Stanley begged their lordships to believe that the question involved interests more important than a single colony! He stated that Van Diemen's Land could not be swamped by an annual influx of four thousand. If, he said, the thirty thousand persons released from the prisons of France were so intolerable, what must be the condition of England with sixty thousand ex-convicts then settled in the colonies? Van Diemen's Land was always a penal colony, and he saw no reason that it should be otherwise. Earl Grey warmly censured this policy, and complained "that no hope of relief from the frightful evils of transportation had been afforded." He stated that he was "prepared to express an opinion that transportation should be got rid of. He had long entertained that opinion, and had never seen the arguments of the Archbishop of Dublin refuted." A duplicate of this petition, presented to the Commons, was followed by the motion of Mr. Ewart, "That it is inexpedient to make Van Diemen's Land the sole receptacle of convicts, and that transportation be abolished, except as a supplement to penal discipline" (May, 1846).

The day chosen was inauspicious. The "house" was gone to the Epsom races. Mr. Hudson, the railway king, not better employed, stumbled into the chapel of St. Stephen, and counted out the members. Mr. Ewart renewed his motion (July 6). A few days before Earl Grey and Mr. Hawes had obtained the command of the colonies, they admitted the facts of the petition, and promised redress. The liberal principles avowed by the new government reassured the friends of Van Diemen's Land. Mr. Gladstone had determined to arrest the influx of convicts for two years: this was approved by his successor. In quashing the North Australian colony, Earl Grey stated his dissent from the principles on which it had been founded (September 30, 1846). The whigs ever expressed a decided abhorrence of penal colonisation and the collection of masses cradled in the traditions of crime. When taunted with this accumulation in Van Diemen's Land as the result of his policy of 1840, Lord John Russell explained:—"As to the sending of convicts to Van Diemen's Land, he had intended to adopt the policy recommended in the work of the Archbishop of Dublin. Had his plan been carried out, instead of 4,000 convicts sent to Van Diemen's Land there would not have been more than five or six hundred."

When Earl Grey instructed Sir William Denison in reference to certain reforms, he intimated his expectation that transportation would terminate. Soon after Sir William Denison addressed to the magistrates of the territory a series of enquiries (March, 1847), of which the first was awfully momentous. "Do you consider it desirable that transportation of convicts to this country should cease altogether?" The character of the enquiry was described in a letter signed by the private secretary. The governor preferred communicating with these gentlemen, and by them with their neighbours, rather than with popular assemblies. It was not, however, to be expected that a subject of direct and universal concern would be resigned to the discussion of a single class; nor did persons holding magisterial distinctions, on that account command the confidence of the people. This was felt by the magistrates themselves. A preliminary meeting was convened at Hobart Town to discuss the subject of the circular. A difference of opinion was apparent, and an angry altercation ensued. Mr. Carter, a storekeeper, defended transportation as necessary to trade. Mr. Gregson advised his auditors to cast the question of crocks and slops to the wind, and to secure at once the final liberation of the colony.



A public meeting was held at Hobart Town. Ineffectual attempts to postpone the question by the advocates of transportation were offered, and the speakers on the popular side were loudly cheered. The party defeated signed a memorial representing that they were not heard at the meeting, and repudiating its decision. Sir William Denison promised to place it in the hands of Earl Grey "as a record to be employed in the support of the facts it contained."

This second petition, adopted by the colony (6th May, 1847), was also drawn up by Mr. Pitcairn. The editors of the *London Morning Chronicle* remarked "That they never read a public document more calculated to command both the convictions and sympathies of those whom it addresses. Future ages would contemplate with amazement the fact that wrongs so cruel in their nature, and so enormous in their amount, have been inflicted in civilized times." It recapitulated the grievances of the colony with energy and clearness. It complained that promises of relief had proved fallacious—that the worst evils of transportation were continued; that there were then four thousand prisoners more in the colony than were ever at one time in New South Wales, and that 12,000 free persons had quitted the country since 1841. The petition asked for representative government, the abolition of transportation, and the importation of 12,000 free immigrants at the expense of Great Britain; and it recommended the removal of the men to the colony of North Australia, or wherever they might be required. Meetings were held by different classes in several districts of the colony. In the most populous the feeling decidedly favored abolition. Not the least important of the series were held in Launceston. Six magistrates of the north determined to advise with the colonists at large. The persons who assembled at their call were undecided; the friends of abolition desired delay; its determined opponents deprecated public discussion; but to the majority deliberation seemed necessary, and on the motion of Mr. Dry a committee was constituted who were requested to collect evidence, to make a report, and draft a reply to the circular of the governor.\* The tradesmen of that public spirited community first expressed their sentiments. A few transportationists induced a respectable shopkeeper to propose thirty-nine reasons for the continuance of transportation, but

\* The committee was constituted by the following gentlemen:—Wm. Archer, J.P., W. H. Browne, L.L.D., James Cox, J.P., R. Dry, M.L.C., F. M. Innes, Esq., J. G. Jennings, J.P., W. R. Pugh, M.D., J.P., H. Reed, J.P., J. Thompson, Esq., and J. A. Youl, J. P.



the warmth of his elocution and the frequent repetition of "because" in an Aberdeen accent, dissolved his party in laughter. The good humoured logician acquiesced in the voice of the assembly and abandoned the cause of transportation for ever. The meeting convened of the northern colonists assembled on the 10th of May. The committee appointed on the 3d of April having prepared a report, and founded on its conclusions a reply to the circular, it was signed by the chairman, James Cox, Esq., of Clarendon.\* Many who

\* This document, some extracts of which express the prevailing opinion, was read by Mr. Dry :—

"The circular addressed by his Excellency to the magistrates of this territory, has been made the subject of careful deliberation.

To his Excellency's first question—'Do you consider it desirable that the transportation of convicts to this colony should cease altogether?' we reply that it is our opinion transportation 'to this country should cease altogether.'

In connexion with this question we recognise the truth and importance of his Excellency's caution, that no 'material advantage' ought to 'balance against any amount of moral evil, however small;' we have therefore directed our attention to this point as preliminary to a decision on others less vital.

In examining the moral bearings of transportation, we have enquired—

1. Are there any moral evils occasioned by the transportation of convicts to the colony?

2. If so, are the moral evils now connected with transportation inherent and inseparable?

3. Can it be presumed that other, and greater moral evils will accrue to the colony from the stoppage of transportation?

It appears that the convicts in this colony out-number the children, and amount to nearly double the adult free population; that since the year 1840, 25,228 prisoners have been transported to Van Diemen's Land and its dependencies; that one fifth only of these are females; that the greater proportion of domestic servants as well as laborers are convicts; that they are in constant contact with every class of colonial society; and that though not universally, they are generally persons of bad principles and vicious habits.

The numerical preponderance of prisoners has lowered the general tone of society, encouraged fraud, obstructed the administration of justice, and so far multiplied crime as to discourage its prosecution; notwithstanding 521 persons were tried before the Supreme Court and Quarter Sessions, last year.

The second enquiry is,—are the evils in connection with transportation inherent and inseparable?

Looking at the present condition of this island, it may be justly concluded that they are.

Reason and experience justify the conclusion that the aggregation of prisoners whether in close bondage or in society, must confirm them in evil. The effect of transportation is to force the free working classes from the island, and to supply their place with prisoners. It appears, therefore, demonstrable that as far as they are the instruments of demoralization, it is inevitable, from their numerical preponderance. Their condition affords no prospect of extensive reformation, and whatever evils they may be supposed to create, are essential consequences of transportation.

3. 'Whether greater evils may not arise from the shock to society, which the sudden cessation of a supply of labour may cause?'

It is not perceived in what manner the want of labour can be productive of greater moral evils than now exist. An increase of wages must be so far beneficial to the employed, and increase their means of comfort. It is not supposed

were formerly advocates for transportation as it once existed, saw its dangers when they became anxious for the moral and social welfare of their sons. They were formerly but flock-masters, but they had become the founders of a state. They learned from the discussions of the ministers that what they had thought a service rendered to the crown was deemed disgraceful and degrading. Opulent settlers who visited Europe found it convenient to conceal their home, and some less prudent were repelled with unconquerable distrust.\* In a small community the public reputation is of personal importance, and it was alleged that to neglect the offer of social freedom would be infamy unexampled. To this feeling the abolitionists appealed. "Parents of Van Diemen's Land," said the author of a pamphlet called *Common Sense*, "can you hesitate? Let the timid and sordid doubt,—let them reckon the farthing they may lose! Let your hearts dictate your answer to the circular. Let it be worthy Britons,

that a deficiency of labour will increase the *immorality of the upper classes*; and no connexion can be discovered between cessation and an increase of evil in any form whatever. On the contrary, transportation, by raising the proportion of the aged, the feeble, and the incapable, would seem to lead to the apprehension that greater immorality may result as the growing effect of want and distress. Even were it true, that the more wealthy classes are safe from contamination could a moral cordon be drawn—even could they be held safe from the effects of unrestricted communication with men of the same language, color, and nation—still there appears no propriety in leaving the working classes generally out of account. Many were induced to settle in this country by representations for which the government is morally responsible. As subjects of the Queen, they are entitled to be guarded against any measures which may destroy their social position and domestic security; it would be difficult to justify the sacrifice of their welfare for the sake of a class—numerically much smaller—however rich.

And, in looking at the circumstances of this colony, no causes have been discovered for inferring its decline, *excepting only such as are the effects of transportation.*"

The reply to the first query, "that transportation ought to cease at once and for ever," elicited applause that lasted some minutes.

\* In our native land we are looked upon with feelings of horror. An old and respected colonist, and a most intimate friend of his own, had gone home, and had lately returned. He had told him some stories, and he would vouch for the truth of them. When he arrived at home he took his family to an hotel. He had not been there long before the landlord learnt that he had come from this place: he came to him with a face full of concern, and said, "You did not tell me, sir, that you came from Van Diemen's Land; do not let it be known, or I shall be ruined." On another occasion a friend of his had to assure the landlord that he was a perfectly honest man, and he need not be afraid of him, although he did come from Van Diemen's Land. A short time after he had been in England he engaged a butler. He had not been long in the family before he came and said the place did not suit him, and he left at once. The servants whom he had taken from this place soon found out the feeling that existed; and, instead of saying they came from here, they used to say they came from India.—*Speech of Robert Officer, M. D., at Hobart Town Meeting.*



Christians, and Parents. Shew that you prize your rights, and that you love your children. That land which they tell you will become a desert when the clank of chains, the cries of torture, the noise of riot, and the groans of despair shall be heard no longer, will *not* become a desert; 'it will blossom abundantly, and rejoice with joy and singing,' when your sons and daughters shall go forth, the free among the free. Consult your own understandings, that you may obey the dictates of your hearts. The Sovereign has invited you to express your desire. Let it not be one that will cause the eyes of mankind to look upon you with abhorrence, and turn away with contempt. Make not your name a scorn and a hissing! Perform your duty, AND SAVE YOUR ADOPTED COUNTRY!"

### SECTION III.

The benefit derived from Mr. M'Lachlan's efforts was apparent to all. But he was returning to Van Diemen's Land. The New South Wales legislature engaged the Honourable F. Scott, M.P., to watch over their concerns. To this Lord Stanley demurred. He said a retainer for a colony was inconsistent with the standing obligations of a member of parliament, and that a committee to direct him would usurp the functions of the executive (1845). The old American colonies appointed agents: sometimes acting for only one branch of the legislature where there were two chambers. They were often members of parliament. Edmund Burke filled this office for the assembly of New York, with a salary of £500. The people of Van Diemen's Land formed "The London Agency Association," and appointed Mr. J. A. Jackson to represent them. Their proceedings were adopted by the colony, at a meeting called by the sheriff of Hobart Town; they did not however pretend to public authority, and they confined their attention to secular questions. The subscribers were called together at this crisis. By a vote, almost unanimous, they adopted a letter of instructions which directed Mr. Jackson to support the cause of total abolition. The London Agency Association expressed the opinions of the country gentlemen. There were several other organisations composed chiefly of tradesmen. In reference, however, to representation and abolition, all classes agreed.



The British Government seemed to anticipate the wishes of the colonists. A despatch (February 5, 1847,) from Earl Grey, printed in the blue book, informed the people that transportation to Van Diemen's Land, except, indeed, as a part of the colonial empire, was finally terminated. There was nothing to prevent the arrival of exiles, when the state of the colony could admit of their dispersion amidst a free people,—a condition explicitly required by the primary object of cessation. This despatch Sir William Denison laid on the table of the council, and while he noticed its harmony with the wishes of a large proportion of the free inhabitants, he exhorted them to beware of undue exultation or despondency whatever the issue of the measure, and in this crisis of their fate to confide in the goodness of God (July, 1848).

The views of the government were expounded in official letters and speeches in the British legislature. Stated with brevity they expressed a purpose to punish crime in England, and to assist the emigration to every British colony, individually rather than collectively, of men with conditional pardons. Sir George Grey asserted that the idea of resuming transportation to Van Diemen's Land was illusory. He recommended that the governor should be instantly informed of its termination. He condemned the practice of sending many exiles to one place as likely to create a feeling of caste, and in time produce the evils of penal colonisation. With these views Earl Grey concurred (February 5, 1847). He stated that they agreed with his established opinion, and he thought that well trained convicts might be dispersed in the colonies, especially taking care to promote the emigration of a considerable number of persons untainted with crime. To the same effect was his exposition of the future policy in the House of Lords. He expressed a hope that exiles might be so distributed that the chance of recognition should be slight. Lord Brougham made merry at this notion of banishment as a game at which two could play, and depicted the consternation of Calais at an arrival of reformed Pentonvillians. The chief reliance of Earl Grey was on the demand for convict labor in the colonies, which he far too highly estimated. When the intentions of the home government were declared, Sir W. Denison, who had given opposite advice, hastened to recall his recommendation. He stated that to resume transportation in any shape would be looked upon as a breach of faith, and be very embarrassing to government (August 28, 1847).

The publication of Earl Grey's policy occasioned general

gladness and gratitude. But it was followed by a measure adverse to its whole spirit and the facts on which it had been founded (September, 1847). The governor was directed to remove the convicts at Norfolk Island to Van Diemen's Land, and to receive those remaining in New South Wales not entitled to release. Drafts of transports were constantly arriving from every British dependency, and thus additions were daily made to the overwhelming convict population. The vices of the Norfolk Island prisoners had appalled the empire. The residuary convicts of New South Wales indicated their character by their long detention. Some were imprisoned in caverns dug in the rocks, and their depravity assumed the aspect of mania. The whole colony was roused by these projects. Meetings and memorials were multiplied. A deputation to the governor, then in Launceston, was attended by a long and excited procession. He concurred in their sentiments, suspended the progress of the scheme, and received the thanks of the colonists and the minister. The result was unimportant, for from Norfolk Island the convicts were silently transmitted to Van Diemen's Land and distributed undistinguished.

Mr. Gladstone, when secretary for the colonies, addressed a confidential despatch to Sir C. Fitz Roy (April, 1846), and left its publication to his discretion. It proposed to renew transportation to New South Wales with the assent of the colonial legislature. This proposal was submitted to a committee of the council. A report was founded on the evidence of employers and forwarded to Earl Grey. It consented, conditionally; that two free persons should be sent at the expense of England for every prisoner, and that assignment should be revived. It admitted that the real welfare of the colony might be best promoted by the total stoppage of transportation to Australasia; and it yielded to a regulated and compensating scheme only as the alternative of indirect transportation. To give effect to the report, of which the adjournment of the legislative council prevented the consideration, Mr. Darvall and five hundred others presented a petition to the crown, which Earl Grey, "laid at the foot of the throne." Earl Grey refused to restore assignment or to send two free persons for one in bonds; but he offered to send an equal number of each at the cost of the British treasury (September 3, 1847). After an earnest but limited opposition the proposal was accepted by the legislative council, and the vast territory of New South Wales opened to the dispersion of 5,000 prisoners per annum.



But Earl Grey himself departed from his own proposals (September, 1848). He alleged that the exchequer would not permit the execution of the emigration scheme, and that the demand for labour in the other British colonies to the full extent of the supply rendered the outlay unnecessary. Yet to satisfy the petitioners for convicts, some ships would be sent. But should the legislature insist, emigrants in equal numbers would follow them, and transportation terminate.

The adoption of this course was prompted by financial considerations, but especially by the offer of Sir William Denison to receive 4,000 convicts annually, and thus to disperse them over the continent. This offer had been cancelled in another despatch, but of this, although before him, Earl Grey took no notice. He described with great apparent elation, the character of reformed prisoners, and quoted a chaplain as his authority, who represented them in the most favorable light. They cheerfully endured exposure on the public works, to deter their fellow countrymen from crime, and overcame all their adversities by patience and prayer. To a variety of notions, all absurd and impracticable, and all speedily abandoned, he added, "Her Majesty's government accordingly propose in future, with regard to all convicts, except those whose health may require different treatment, or whose sentences have been commuted for imprisonment, that, after having gone through the two first stages of punishment already adverted to, they should be removed as holders of tickets-of-leave to Van Diemen's Land" (April 27, 1848).

Mr. Jackson obtained an interview with Earl Grey (Oct., 1848), and pointed out the injustice of this course. His lordship lamented the revival of transportation to Van Diemen's Land, and said that it arose from unavoidable circumstances. He declared his adherence to the plan of dispersion, and his belief that South Africa, Port Phillip, and other colonies would afford an ample outlet for the prisoners. Circulars were accordingly sent to the Cape of Good Hope, the Mauritius, New Zealand, New South Wales, and Swan River. The Swan River colonists, a few hundreds in all, accepted the offer. South Australia refused. In New Zealand the people of both colors deprecated the plan. "Send us gentlemen," said the chiefs, "but send us no convicts."

Before replies could arrive, Earl Grey resolved to attempt its execution. He began with the Cape of Good Hope: he thought that the military outlay for its defence entitled the crown to invade it with convicts. The *Neptune*, with ticket-



holders from Ireland, anchored in Simon's Bay: the inhabitants besought Sir Harry Smith to send her back. This he refused; but he expressed his entire sympathy with their opinions, and forwarded a despatch to that effect. He promised that not one should land without new orders from the secretary of state. The people, unwilling to depend on the justice of Earl Grey, formed a confederacy. They refused to hold intercourse with the government, or while the vessel remained on their coast to supply the commissariat, or to deal with any who violated this compact. Branch associations sprung up in every district: passes were issued to travellers to show they had not strayed from the *Neptune*. Every public body, civil and religious, sanctioned the resistance. The cause of the Cape was espoused by the British press. A motion was made in the Commons, by Mr. Adderley, amounting to a censure on the minister. Both Lord John Russell and Earl Grey promised to remove the grievance, and the *Neptune* was ordered to sail for Van Diemen's Land (November 3, 1849). The inhabitants gave money to be distributed to the prisoners at their destination (February, 1850). This done, they joined in illuminations, public thanksgivings, and congratulatory addresses to the governor, who reproved their zeal, but rejoiced at their success. A prosecution of Mr. Fairbairn, for conspiracy to compel an unlawful act, was begun, but fell to the ground. A settler who supplied the government was honored with knighthood: an example was offered to the empire of passive but victorious resistance.

The despatch of Earl Grey repudiating his own stipulation excited the rage of New South Wales. Mr. Charles Cowper carried resolutions rejecting transportation in any form whatever through the legislative council without opposition. On the arrival of the *Hashemy*, a convict vessel, the inhabitants of Sydney to the number of some thousands assembled (June 11, 1849), and by a deputation to Sir Charles Fitz Roy, demanded that the prisoners should be sent away, if necessary at the colonial cost. Sir Charles was alarmed and increased his guards; he refused admittance to the deputation, and represented their constituents as a factious and feeble minority. The *Randolph* on a similar errand entered Port Phillip; the people resolved to oppose the landing. They applied to Sir Charles Fitz Roy, then on a visit to their district, to prevent their invasion. They were sustained by the forcible remonstrance of Mr. Latrobe, and the vessel was sent to another part of the territory.

No single cause will fully account for the intense and universal opposition to the plans of Earl Grey. The vacillation of his lordship in reference to the emigrant clause, produced feelings of exasperation and distrust, but the sad experience of Van Diemen's Land was accepted as a warning by other portions of the empire. A pamphlet, recording the proceedings of the Tasmanian colonists, was everywhere scattered. It minutely examined the penal policy of the crown, and recorded the various demonstrations against convictism (June, 1847). A large package of this pamphlet was forwarded by the Launceston Association to the Cape of Good Hope, and arrived a few weeks before the *Neptune*. Thus foreign fuel was added to the local fire—the testimony of men who had practically known the system, and by whom it was abhorred. The committee appointed by the Lords (1847), by the witnesses they examined, authenticated the evidence against it. The fate of Van Diemen's Land did not command peculiar interest amidst the wreck of thrones and the overthrow of empires; but the supposed connection between the criminals and insurgents of France alarmed the aristocracy, and disposed them to cling to transportation. The Bishop of Tasmania bore testimony to its colonial mischief. Lord Brougham endeavored to draw admissions favorable to his views with professional acuteness; but he was foiled, and the bishop pronounced the solemn warning that those who cast a prisoner, especially a woman, into a community where criminal principles prevail, pronounce a sentence for both worlds.

The Tasmanian colonists were soon instructed by the press that the theory of dispersion was exploded. They were astonished to find fresh convict vessels hovering on their shores; but more still were they amazed to learn that Earl Grey seriously professed that by sending all the convicts to Van Diemen's Land he substantially realised dispersion. He indeed promised to provide an equal amount of emigration, but they knew that these projects were illusive. They had before them the addition of convict ticket holders, by hundreds, to thousands and tens of thousands already in the colony; there to struggle with their predecessors for bread. Such was the prospect of 1848.



## SECTION IV.

"I hope," said Lord John Russell, "that when the house does come seriously to consider any bill having the question of transportation directly in view, it will consider the benefit of the colonies as well as of the mother country. I own I think it has been too much the custom both to pass acts imposing the penalty of transportation with a view rather to the convenience of this country than to the reformation of persons known to be of vicious habits, or to the interest of the colonies to which they were sent. We are bound to consider those interests likewise. We are bound when we are planting provinces, perhaps what may in future time be empires, to endeavour that they should not be merely seats of malefactors and of convicts, but communities fitted to set an example of virtue and happiness, and not to make plantations, as Lord Bacon says, of the scum of the land" (June, 1847). Such were the sentiments of the prime minister on penal colonisation. The secretary of the home department and the secretary for the colonies had been equally explicit. Could they really believe their own doctrine, when their practice was exactly opposite to its plainest dictates?

The revolution in the policy of the crown everywhere excited astonishment and indignation. The minister, who denounced penal colonisation as a national crime—who had pleaded the cause of the colony and pledged the redress of its grievances—who, in short, had professed himself a disciple of Archbishop Whatley—continued to pour convicts by thousands where for every free man there were two in bond. Destitute of legislative and physical power, the colonists could do nothing but deprecate. Every principal town and public body renewed their entreaties. To give them in full would be but to repeat statements of similar import. However variously expressed, they could scarcely deepen the unavoidable convictions of the world.

In their numerous petitions the colonists referred to the public joy which had greeted an offer of abolition,—accepted not less as a signal interference of providence than as a proof of the equity of the British government. They slightly censured Sir William Denison who had called for four thousand convicts annually, against the petitions of 5,320 colonists, 624 parents and guardians, representing 3,355 souls; against the memorials of the clergy of every sect, the oldest magistrates, and most opulent settlers, and



public meetings everywhere decisive, and they entreated deliverance from an experiment more hopeless than its predecessors. They reminded the government of Great Britain that the colony was now entitled to abolition, not only as a measure politic in itself, but as guaranteed by the deliberate and solemn promise of the minister, promulgated by the representative of the crown.

A massive volume would be insufficient to contain the petitions, letters, and despatches produced in this controversy. Colonists well qualified to maintain the popular cause devoted to this question the best years of life.

Sir William Denison, although opposed to one form of transportation, maintained its substance with a pertinacity which never wavered. He stood almost alone. He adopted the opinion that the supply of labor to the colonies of this hemisphere was within the special province of his government. The tendency of high wages to demoralise the workman and retard the prosperity of employers, are prominent topics in all his discourses and writings. Thus the masses of the people inferred that his schemes were hostile to their welfare, and that the depression of the working classes was a primary object of his policy. The opulent settlers had abandoned these considerations under the influence of higher aims. They were resolved to trust to the experience of other colonies where—with a demand for labor—a rapid enlargement of capital and diminished crime seemed to prove that the moral and material interests of the wealthy and industrial classes were not incompatible. The social recovery of the colony could only be effected by the influx of families, and a comfortable subsistence was indispensable to attract them. The arguments of the governor, addressed to momentary interests, were overpowered by a desire to stand on a level with free peoples. The disputants on both sides were in possession of facts favorable to their respective opinions. Whatever evils were proved against transportation, the labor it afforded had been long employed. Habit had reconciled the minds of many to its inferiority; and the means of supplying its place were confessedly contingent and remote. A new society, having no disabilities to remove, no moral stain to obliterate, and formed of elements in natural proportion, could not hesitate a moment. Economical experience would dictate the rejection of slaves. But to clear away the refuse of a long-existing social state, and to build anew, was a formidable undertaking, however certain of reward. Many land-holders

and masters foresaw the trials attending the transition, but were willing to encounter them to attain an object beyond all price. "We wish it," said one of their manifestos, "to go forth to England, and to England's Queen, that we are not expecting solicitation or waiting for bribes; but knowing what we do, and prizing as man must ever prize the sources of gain, our resolution is taken,—relying on the sympathy of mankind, we cast ourselves on the goodness of Almighty God, and dare all hazards, *that our children may be virtuous, and their country free.*"

The expression of colonial feeling was accepted by most respectable dissentients as decisive. The settlers least averse to transportation were disgusted with the ever-changing views of the ministers. In the preceding ten years they had never known an hour's repose. In '38, the parliamentary committee condemned assignment. In '40, Lord John Russell stopped transportation. In '41, Captain Maconochie's mark system was in the ascendant. In '42, Lord Stanley's probation scheme sprang up. In '45, Mr. Gladstone projected the North Australian colony for ticket-holders. In '46, Earl Grey propounded the Tasmanian convict village scheme. In '47, he announced total abolition. In '48, another complete revolution took place, and all convicts were to be sent to Van Diemen's Land. This extravagance of upstart theory and fitful experiment without end, all tended to check colonial enterprise and destroy the public tranquillity.

In whatever sense Earl Grey announced abolition in '47, it was clear that free emigration was essential to his plan when he proposed to resume it in '48. The funds he assigned for this purpose were sums,—the cost of their exile—to be exacted from ticket-holders as the price of freedom. But these funds were wholly prospective. Insuperable difficulties opposed their collection. Nor was the principle just. The sickly and unskilful would have stood at a greater distance from liberation than the clever and robust. The successful thief could purchase his freedom, and leave behind his more honest shipmates. The criminal being confounded with the debtor, a penal sentence would have ended in a civil process. Earl Grey proposed to add to the free population by the expenditure of £10,000, granted by the parliament, but it was found that the families of convicts were to be the chief participants. Thus resumption cut off all hope of free emigration. Nor was it even desirable while the laboring classes were in poverty. The settlers had the example of New South Wales before them; where even



the sudden stoppage of transportation had been followed by rapid recovery. They were willing to combat their difficulties alone. "Such," said they, "will at no distant period be the condition of this country should the government prove just. And then, with its fertile valleys, clothed with abundance and filled with life, and its pure salubrious atmosphere giving length of days, it will need no other attractions than nature has conferred—no other commerce than the commerce of freedom—no patronage save the enterprise of its children. From the crown we ask nothing except to spare us from further wrong, and to accept our grateful loyalty in return for the uplifting of a burden too heavy to bear."

The governor himself was adverse to the ticket system. The control exercised over the holders was limited to the most ineffectual and distant surveillance. They were free in reference to the colonists, and were subject to the same laws for the regulation of service. Restrictions were imposed on their locomotion, but without much practical restraint. Sir William Denison now recommended to the secretary of state to send all convicts to New South Wales, where wages were high and labor scarce, until the colonies being equal, the market of Van Diemen's Land might again share in absorbing them. To this plan the colony would have been disposed to assent at this stage of the struggle. By most persons it was thought reasonable, on national grounds, that the theory of dispersion should be tried, wherever it might inflict no peculiar caste or moral stain. Mr. Sharland, a strenuous abolitionist, prepared a series of resolutions against the new form of convictism. The governor promised to support them in the nominee council, and they passed unanimously (October, 1848). The first totally objected to the ticket system, as in the highest degree injurious to the convicts and the colony, and without advantage to Great Britain. The second recommended the dispersion of convicts throughout the colonies, accompanied by well-selected emigrants. The commentary of the governor explained these resolutions as a compromise between persons of adverse views. A large number of non-official magistrates—117 out of 140—signed the condemnatory clause only. They declined to countenance the revival of transportation, or, by discussing theories of secondary punishment, to weaken the moral claim held in the pledge of Earl Grey.

The increasing numbers of ticket-holders confirmed these objections. They were landed, and forwarded in considerable



bodies to seek employment in the interior. Their decent apparel and quiet demeanour made them less objects of aversion than pity. Unacquainted with colonial labor, they were often unable to procure employment. Amongst men of this class many, of course, were disorderly and reckless, and when they were not readily relieved, they were insolent and threatening. They could, indeed, throw up their tickets, and claim food of the government, but only by a process which exposed them to censure and punishment. "Unfortunate men," said the London Agency Association, "unacquainted with useful labor, wander from farm to farm, asking for a night's shelter or a morsel of bread. The relief of these men by the settlers is prompted alike by their humanity and their fears."\* These statements were disputed by the governor, but they were sustained by numerous certificates, and, in a form more qualified, by several police magistrates. In a lonely locality females could hardly refuse relief to applicants in parties, who pleaded the utmost want, and, when travelling over districts equal to an English county, depended on the charity of the settlers.

These appeals were laid before parliament; they rested their claims on the word and honor of the minister, and on the unaltered circumstances which he quoted to justify his original design of abolition. The pledge was confirmed by the long acquiescence of Earl Grey and the other ministers of the crown. Lord Mahon, a member of the late ministry, complained that Earl Grey had fettered not only himself but his successors. He confirmed the colonial interpretation of the pledge, "most imprudently given by Earl Grey, that transportation should not be resumed to Van Diemen's Land;" and he expressed an opinion "that it was most impolitic and perilous thus to make pledges to the colonists that were not fulfilled."†

During the same session Mr. Gladstone repeatedly referred to the purport of this abolition despatch, and urged the minister to extend as widely as possible the area of penal dispersion. He thought the policy of England less wise than in former times, when the numbers distributed in America were so small that they were lost in the mass of the population (March, '49). Lord John Russell, he observed, had given a pledge that transportation to New South Wales should be stopped. The same promise was made to Van Diemen's

\* London Agency Letter, November, 1848.

† Debate, March 8, 1849. (Hansard.)

Land. Had these pledges been kept? Such vacillation was discreditable to the name of this great country (June, '49).

Earl Grey was still pressed by the reiterated appeals of Van Diemen's Land, and by imputations of having broken faith with its inhabitants. The complaints of eminent commoners were renewed in the lords. He was reminded that his opinions in 1846 were at variance with continued transportation. Earl Grey demanded proof, when Lord Lyttleton held up his despatch, and referred to an opinion but a few days before avowed by Lord John Russell, that the time was at hand when a substitute would be necessary for transportation. Lords Wodehouse and Ilchester followed, and predicted a fearful recoil,—a severe and well merited retribution. Lord Stanley reflected on the secretary of state for abandoning the remedial plans of his predecessor. "Expectations," he said, "had been held out to Van Diemen's Land, that transportation would cease, but that now it appeared that it was not to cease. What security had the noble lord that the colony would not resist the reception of convicts?" Lord Monteagle asked if it was possible to send them to Van Diemen's Land? To this Earl Grey replied that the colony was thriving, that the opposition to transportation had declined. Millions had been expended in preparing the country for convicts, and the free inhabitants could not expect that when they chose to call for cessation, the imperial policy was to be altered on their demand (April 12, 1850).

"I must notice," said Earl Grey, "the remarks of the noble lord at the table (Lord Lyttleton) and the noble lord opposite, (Lord Stanley) as to the effect of the earlier measures of the present administration in producing the difficulty which is now complained of. It is asserted that the language used both in despatches and in discussions in parliament by members of her Majesty's government was calculated to create an impression on the minds of the colonists, that transportation was to be entirely discontinued, and thus to raise expectation, which it is painful now to disappoint. My lords, if that impression and these expectations were created, it was rather by what other parties represented to be the views and intentions of the government, than by anything which was said by members of the administration. I defy any person to read through the despatches upon this subject as a whole (for perhaps detached passages taken without the contents might be quoted which would convey a different meaning), and not to perceive that the view entertained from



first to last was, that convicts, after having undergone the most severe part of their punishment, were to be removed to the Australian colonies, and a very large portion of them to Van Diemen's Land. Undoubtedly it was the original intention of her Majesty's government that convicts should be removed as exiles; that is, under regulations by which on their arrival they would have been entirely free except as to the power of returning to this country." When his lordship was again taunted with the violation of his promise, he replied that Van Diemen's Land had no right to complain—colonies which had been founded as free colonies might do so; "but Van Diemen's Land had been originally intended as a penal settlement, and had no right to refuse to receive any number of prisoners the government choose to send, and that he (Earl Grey) was of opinion that the authority of the crown should be firmly asserted."

Thus the hope of voluntary relief from Earl Grey was totally extinguished. He had before acknowledged that the claims of the colony were unsatisfied, and had given no distinct denial of the pledge; but his tone under these rebukes was authoritative and menacing. Passing over all he had ever said in favor of dispersion, he adopted the sentiments, almost the words of Lord Stanley, delivered four years before, when that nobleman defended the policy of transportation and denied the right of the colonists of Tasmania to complain.

The people of Van Diemen's Land, on receiving this speech, met in unusual numbers, and renewed their protests and petitions. They extended the leagues, started a year before, by Mr. Young, a Launceston mechanic, to discountenance the employment of convicts. These compacts contained various conditions, but they all proceeded on the presumption that petitions must be followed by action. They were, however, difficult to observe. It was not easy to distinguish the different orders of convicts and periods of arrival. The working-classes, to whom the confederation was beneficial, taunted employers with inconsistency when they shrank from the unequal sacrifice. The governor himself described the opponents of transportation, who employed convicts, in terms of irony, and the press took up the reproach, and weekly reiterated the charge of "paltry trimming between principle and expediency." By many hundreds the pledge was signed notwithstanding, and it was generally kept. Many tradesmen exhibited an example of



self-denial and voluntary sacrifice to gain a public object worthy of praise.\*

When the *Neptune*, rejected by the Cape, arrived in the Derwent, except Mr. Mitchell, who was detained in bondage, the passengers were pardoned (1850). The painful exhibition of ministerial contempt stung more than it injured the people of Tasmania, and they declared that nothing but want of power prevented them from chasing the vessel from their waters. A solemn protest, addressed to the people of Great Britain, was signed by the chief merchants and landholders.† From this time the colonists continued to protest specially against the violation of public faith whenever a convict vessel anchored on their shores. Scarcely any form of remonstrance remained to be tried. For three years the colonists had repeated their petitions. The collecting of

\* Among the many devices to awaken attention to ministerial injustice was an association to obtain for liberated convicts, of the incorrigible class, a passage to England. The prospectus, signed by Drs. Browne and Gaunt, turned back the British arguments for transportation with effect, and proposed to remit the objects of their charity to the reform societies, parishes, and municipalities of England. This proposal was seriously discussed at Port Phillip, and nothing prevented its partial execution but the difficulty of preserving, with the ordinary arrangements of a vessel, the subordination of such a ship's company.

† "The solemn Declaration of the undersigned Colonists of Van Diemen's Land, addressed to the British nation.

"On the 5th day of April, 1850, the ship *Neptune*, the vessel freighted with convicts to the Cape of Good Hope, but rejected by its inhabitants, anchored in the port of Hobart Town, under the orders of the right honorable the secretary of state, Earl Grey.

"Our reiterated petitions presented to her Majesty's government have expressed the feelings of every class upon the subject of transportation, and exhausted every argument which could enforce its abolition.

"The ministers of religion, the parents of 20,000 children, the magistrates almost unanimously, have in every form expostulated and implored; nothing that the constitution authorises remains to be done to make known the most unhappy and oppressed condition of this country. . . .

"We cannot resist the oppression of the British government. We are convinced that appeals to the justice and humanity of the ministry are utterly unavailing; and that the principles which have induced them to relieve armed or rebellious colonies, lead to the oppression or contemptuous disregard of those who are too feeble for effectual resistance.

"We have patiently awaited redress; we have borne illegal taxes, imposed by a council of crown nominees, and maintained by the removal of one judge and the appointment of another; and have appealed only to the provisions of the constitutional law of England—but in vain.

"And now, to fill up the measure of our wrong, ministers have publicly announced their contempt for our petitions, by ordering the *Neptune* to our port, and discharging her passengers upon our shores.

"In such circumstances silence would be criminal. As citizens and parents we hereby solemnly protest against the cruelty and falsehood of the English government—against the wrongs which threaten and oppress ourselves and our children.

"Van Diemen's Land, April, 1850."

signatures in a scattered population was attended with much difficulty and expense. To stimulate and sustain hope through so long a struggle was the great task of the leaders of this movement. The parents—the women of Van Diemen's Land—the clergy, singly—all sects together and in their separate churches, kept up by petitions a constant fire. Such a topic could hardly be expected to fix the attention of the people of England, but it derived fresh importance from its complication with the fate of other colonies and the honor of Great Britain.

The discussion of transportation for several years annoyed and distressed respectable expirees, who, unless intelligent and just, were disposed to murmur at arguments which seemed to glance at themselves. The caution and discrimination of the leaders of the movement could not always restrain the oratory of their friends, and many offensive metaphors or epithets dropped in the warmth of speaking, not in the circumstances to be justified. Stimulated by newspaper writers, certain educated emancipists of the metropolis proposed to form a "protection association" (October, 1850). In their manifesto they collected all the epithets calculated to wound the feelings of "their people," for so they called them, and drew out columns of "grievances"—in the mock sentimental style of pseudo martyrdom. "Such," said they, "is our truly melancholy condition: but the time has arrived to rescue our people." "We know the silent grandeur of our strength." They proposed to put down the abolition press, to send emancipists to the Council, and to assert the majesty of their numbers against their emigrant oppressors. But, though encouraged by some old transportationists amongst the magistrates, and by the government press, the scheme was too monstrous for success. The respectable expirees stood aloof, and even detested an organisation founded on the reminiscences of crime. A few noisy meetings and inflammatory speeches were sufficient to open the eyes of most to the gulf of caste into which their own protectors intended to fling them. The deputations to the country districts were met in some instances coldly, and in others with laughter. Mr. Gregson went to the assembly at Richmond, and crushed their project by a calm exposition of its character. From this moment the Union languished, and soon disappeared, leaving a memorable warning against penal colonization and the creation of a caste embittered by ignorance and revenge.

It was, however, felt by the colonists that no expression of



the public will would recall the minister to a sense of justice, or command the effectual protection of parliament. The measures adopted by the Cape were impracticable in Van Diemen's Land: if, indeed, consistent with loyalty, they were not proper in a country where the support of the law was necessary to restrain the convict population. Such a course was predicted and recommended by the English press, but the ministers, better informed, felt no danger of active or passive resistance.

Whatever compassion might be felt for Van Diemen's Land in the adjacent colonies, hitherto its treatment by the minister had produced no demonstration in its favor. It had been held up as a warning to stimulate resistance to any participation in its fate. The continental press pointed to its prostration with epithets of reproach, and it was described as the dust-hole of the empire. The sympathy of its neighbors was overpowered by the stronger feeling of self-preservation. It seemed like a mill-stone strung to the neck of the Australian world, and destined to drag it down to perdition. Under this impression they sought to impose restrictions on the migration of ex-convicts and the holders of conditional pardons. The legislature of New South Wales passed a vagrant act, which required such persons to register their names at the nearest police-office, within a given time after their arrival. Earl Grey disallowed this ordinance, at the recommendation of Sir William Denison, as not only in itself oppressive, but calculated to retard dispersion, and counteract the royal prerogative. The great argument of the advocates for transportation in New South Wales was, however, founded on the impossibility of checking indirect transportation through Van Diemen's Land. Men landed in Tasmania, crossed over to Port Phillip, and were often traced by their depredations.

The sense of impotence is not the least painful element of unjust suffering. This weakness was the topic of exulting scorn with the few enemies of the popular cause. The people were without allies or protectors, and completely subject to a despotic will.

#### SECTION V.

BUT the day of deliverance was at hand. "*The Australias are one*" became the watch-word of the abolitionists,



and they adopted decisive means to propagate the cry, and secure the co-operation of the colonies of the continent. From this idea sprang the "Australasian League"—an organization comprehending a numerical and moral force without parallel in the present colonial empire. At Launceston, on the 9th of August, 1850, the following resolution was adopted :—"That the whole of the Australasian Colonies are deeply interested in preventing the continuance of Transportation to this Island. That the Launceston Association for Promoting the cessation of Transportation to Van Diemen's Land be hereby requested to address a letter to the respective Colonial Secretaries, Speakers of Legislative bodies, Municipal authorities, and other influential parties in those Colonies, earnestly requesting the co-operation to ensure their attainment of the great object we have in view."

The feeling expressed in this resolution was instantly reciprocated in all the colonies. Speakers at their meetings referred to the condition and hopeless prostration of Van Diemen's Land as a general grievance. A letter, founded on this resolution, was drawn up by Messrs. West, Du Croz, and Douglas (dated August 26), under the instructions of the "Launceston Association," the first formed in the colonies. It was signed by the chairman, Rev. Dr. Browne, senior-chaplain of Launceston. After tracing the course of the British government, it proceeded :—"As a last resource we turn to our fellow-colonists who, united to us by the strictest ties, are liable to the same wrongs; and who will not be indifferent spectators of sufferings which they may ultimately share. If you look at the chart of Van Diemen's Land you will perceive her geographical position establishes a relation to the adjacent colonies which no laws can disown and no time dissolve. A few hours convey vessels from our shores to the ports of Victoria, New South Wales, and South Australia; and a few days' sail to New Zealand, and thence to the islands that crowd the Pacific Ocean. Her majesty's ministers have taught the communities established in this portion of the empire that their ultimate interests are ONE: that upon the public spirit, intelligence, and virtue of each, in no small measure, depend the happiness and prosperity of all. We remind you that, in twenty years from the present moment, should transportation continue, and the annual number remain stationary, 70,000 or 80,000 convicted persons will have passed through Van Diemen's Land into the neighbouring colonies. They will consist of men not only originally depraved: all will have gone through the

demoralizing probation of public gangs: they will all have dwelt, for several years, in exclusively convict society, where every prevailing sympathy must be tainted with the habits of crime. This island will not be a filter; but the accumulation of moral wretchedness will unavoidably contaminate every mind, and stamp on every character the impression of its peculiar constitution. The sacrifice of this colony will not, therefore, exempt the neighbouring settlements from any portion of the mischief incident to direct transportation. They will receive the prisoners later in life, but deteriorated in character. Evil associations and evil men become worse and worse: such is the dictate of reason, and such is the solemn warning written in the oracles of God. If, then, your colony had cause to protest against the infliction of this evil in a limited degree, how much stronger must be your opposition to a system which will bring into your streets, your houses, your hospitals and prisons, the crime, insanity, decrepitude, and pauperism ever consequent on transportation, aggravated by transmission through a country in moral ruin. Were we to appeal to a principle of selfishness in addressing our countrymen, we might remind you that the reputation of this entire hemisphere is compromised by the condition of Van Diemen's Land. The nice geographical distinctions which colonists make are lost in the distance. As your vessels enter foreign ports, the line which divides your population from our's fails to distinguish them. We have heard with regret, and not without humiliation, that the British name, every where respectable until now, has ceased to insure to many, who have never forfeited its sanction, the common confidence of foreign nations. That a petty state, but of yesterday, has initiated laws intended to stigmatise all the inhabitants of the southern world, and attributing to the whole the character of convictism. A more serious consideration is the positive injury inflicted upon the islanders of the Southern Ocean by scattering among them desperate men who have been perfected in all the arts of wickedness, and who are placed within reach of an interesting and rising people, whom they too often shock by their vices and oppress by their crimes. We submit, sir, to your humanity as a British fellow subject, and to your discretion as a christian magistrate, the case of this country. In the mutation of human affairs, the arm of oppression, which has smitten us with desolation, may strike at your social well-being. Communities allied by blood, language, and commerce, cannot long suffer alone. We conjure you, therefore, by the



unity of colonial interests—as well as by the obligations which bind all men to intercede with the strong and unjust on behalf of the feeble and oppressed—to exert your influence to the intent that transportation to Van Diemen's Land may for ever cease.”

The colonial office at first did not deny, what indeed was unquestionable, that such hopes had been given, and not until twelve months after Lord Grey maintained that his discretion was not limited by his promise. Mr. Jackson again remonstrated with the minister on behalf of the colony. Earl Grey directed Mr. Hawes to assure him the government earnestly desired to meet the wishes of the inhabitants of Van Diemen's Land for the discontinuance of transportation (March, 17, 1849). The opinion of British legislators of high pretensions having confirmed the colonial interpretation, Earl Grey made another effort to recover New South Wales. He once more instructed Sir C. Fitz Roy to reopen the discussion (Nov. 19, 1849), and a message for this purpose was sent to the legislature (June, 1850). A new election meantime occurred, and the people, supposing the question irrevocably settled, had exacted no pledges from the members. Mr. Lamb, then a crown nominee, proposed (August, 1850), a series of resolutions confirming the previous decision, and declaring that tranquillity could only be restored by revoking “the order in council.” The debate on these resolutions was postponed until the 27th of September, when it was understood counter propositions would be submitted.

The proposal to revive transportation in New South Wales was under discussion when the speech of Earl Grey's reached the colonies. The people were called together to consult on their own affairs and naturally turned to the policy of government as exhibited in Tasmania. The resolution of the 9th of August obtained an immediate response, and gave a new aspect to the agitation. The great Sydney meeting (September 16) “pledged themselves to co-operate with their brethren in Van Diemen's Land;” and an association then formed for preventing the revival of transportation opened a channel of communication. The *Sydney Herald*, the chief organ of the abolition cause, remarked, “the best way of dealing with this and all other evasions is that suggested by the people of Van Diemen's Land, the formation of a great Australian confederacy” (September 16). The people of Port Phillip “tendered their deep sympathy and hearty concurrence and co-operation,” and appointed a provisional



committee to take such measures as might be deemed necessary to obtain complete redress. The unity of the colonies became thenceforth the favorite topic, and nothing remained but to give to this important sentiment a practical direction. Meanwhile (1st October), the council of New South Wales decided on the despatch of Earl Grey, so far as related to themselves. An amendment of Mr. M'Arthur, to receive selected exiles with three emigrants for each, although supported by the eloquence of Wentworth, was defeated, and Mr. Lamb's motion carried without a division. The abolitionists had made efforts to secure unexampled demonstrations without, and to determine the question for ever. They held meetings daily, and called into action all the agents of political agitation. The ladies imitated the mothers and daughters of Van Diemen's Land, and petitioned. The members on the popular side were encouraged by the countenance of the bishops and clergy of all persuasions. The judges gave the weight of their experience on the same side. Five hundred persons memorialised the council in favor of transportation. Thirty-six thousand protested against it. The Port Phillip members who went up to Sydney on this errand alone, to secure a majority of the side of abolition, were met by the citizens at the water side and escorted in triumph. The debates were more prolonged than any known before—Australian eloquence exhausted the topic, and satisfied the public judgment for ever. Mr. Wentworth in supporting the amendment yet declared his aversion to transportation, and his belief that nothing but a powerful confederation of the colonies would prevail against it.\* The governor was neutral: the official members of the house withdrew: but the attorney-general rose from the deserted benches, and claiming to perform a duty as a citizen who had watched transportation in all its stages and results, gave an irresistible testimony on the side of social freedom.

\* If this question had been brought forward in a large and comprehensive view before the Federal Assembly of the Australian colonies, which is soon to be called into being, I admit that the decision arrived at might have had some effect on the home government; I think, even now, the wisest and safest course would be to postpone its further discussion, and remit the whole matter to that body. Then, if they were all as sincerely opposed as I am to transportation in any shape, they might come to a conclusion, that convicts should come to none of these colonies; and to such a decision the minister might succumb. It is to such an assembly as this that a question of this magnitude ought to be remitted, as it is a question on which all the colonies are alike concerned. If South Australia, Van Diemen's Land, and Port Phillip, all agreed with New South Wales, in one common determination not to receive convicts in any shape, there would be some hope that they might accomplish their end.

A common interest in the liberation of Tasmania being thus avowed by the continental colonies, it became necessary to settle the principles of their confederation. The Rev. John West of Launceston, who had first mooted the measure, was deputed to consult with the colonists resident at Hobart Town. Meetings were accordingly held at the dwelling house of Mr. Hopkins of that city during several weeks, and the whole question of transportation in its colonial aspect was largely discussed. An impression seemed to prevail that the theory of dispersion, as originally propounded by Earl Grey, might have been beneficial to the empire and desirable for the convicts, and but slightly injurious to the colonies. It was clear, however, that the resolution of the free colonies was irrevocable, and that the continuance of transportation would pour an incessant and destructive stream of crime into Van Diemen's Land. Nor was it possible to make common cause with the adjacent communities but by supporting the object to their local resistance. Without reference to theories no longer practicable, an agreement was drawn up by Mr. Pitcairn, and signed by the gentlemen present, in the following terms:—"We the undersigned, deeply impressed by the evils which have arisen from the transportation of the criminals of Great Britain to the Australian colonies, declare that transportation to any of the colonies ought for ever to cease, and we do hereby pledge ourselves to use all lawful means to procure its abolition—Robert Pitcairn, Thomas D. Chapman, Henry Hopkins, G. C. Clarke, Joseph Allport, John West, F. Haller, G. W. Walker, William Rout, Henry Smith, P. T. Smith, Robert Officer."

Having thus secured concurrence in the object to be sought, the initiation of practical measures was remitted to the Association of Launceston. At an adjourned meeting of that body, on 10th October, the secretary, Mr. Crookes, was instructed to propose a conference of delegates from each of the colonies, to be held at Victoria. This proposal was instantly adopted by the abolitionists of Melbourne: the mayor was requested to forward invitations, and to fix the time of meeting for January, 1851. The people of New South Wales and South Australia found it inconvenient to comply with this arrangement, but expressed the most cordial interest in its issue. The Associations of Hobart Town and Launceston selected, as their delegates, the Rev. J. West and W. P. Weston, Esq., who, for some years, had been actively engaged in the struggle against transportation.



A public breakfast was given by their constituents at the port of embarkation, at which Mr. Sharland presided. The delegates explained their views. They were going forth to change the policy of a mighty empire. "We," said they, "assert that a community should deal with its own crime; at least, so deal with it that, in its disposal, it shall not injure those who have never offended,—so that, at least, the honest labourer shall not be brought into unfavorable competition with the hardened criminal,—so that, at all events, our sons shall not be driven from their homes to seek employment in distant lands, there to meet suspicion and contempt." They disclaimed all intentions inconsistent with constitutional loyalty, and all weapons but those of justice and truth. "We are a loyal people, and have given abundant proof of our loyalty, but it is not an unalterable principle. There is an old proverb: 'The sweetest wine makes the sourest vinegar.'" On the departure of the delegates (Jan. 15, 1851) they were attended by the Launceston Association and a large concourse of people. The vessels in the harbor were decorated with their colours, and the whole scene was imposing. Three cheers were given for the Australasian Conference, and three for the Queen. As the vessel moved from the wharf, the band struck up the air which well expressed the feelings of the moment—"Rule Britannia: Britons never shall be slaves." "In a few weeks," said a spectator, "the Australasian League will be a great fact—an epoch in the history of Australia. We have seen the beginning of the end."

When the delegates landed at Victoria they were warmly welcomed. An address was read and presented to them by the mayor, Mr. Westgarth, the member for Melbourne, Mr. Stawell, and other gentlemen of the association. "We bid you," said they, "God speed, in the high and holy mission on which you come. Rest assured that the colonists of Victoria will go with you heart and hand, and they will not cease their efforts until the emancipation of the Australian colonies from the oppression of British crime shall be fully accomplished." "You," said the delegates in reply, "can confer no greater honor on the province that bears the name of Victoria, than by initiating measures which may assure the Australian world that that illustrious name shall everywhere be the guarantee of justice and truth." The delegates and the local association met in the town council chamber, and concerted the plans of future action. After several protracted sittings the terms of confederation

were settled, and a "LEAGUE AND SOLEMN ENGAGEMENT" formed for the Australian world.\*

This covenant bound the subscribers to reject convict labour afterwards arriving; to employ their powers electoral, official, and legislative, for the extinction of transportation; and to afford their utmost assistance to all who might suffer in the lawful promotion of the cause. Another article, pledging non-intercourse with obstinate transportationists, was expunged on the motion of Messrs. West and Stawell, as scarcely within the range of moral force, and needless in the state of public feeling. To frame a confederation securing perfect independence of action in the separate colonies, and the effective co-operation of all, was a more

#### \* THE AUSTRALASIAN LEAGUE.

*The League and Solemn Engagement of the Australian Colonies, declared by the Delegates in the Conference held at Melbourne, February, 1851.*

WHEREAS, in 1840, by an Order in Council, the practice of transporting convicts to New South Wales was abandoned by the Crown, and, whereas, by divers promises the government of Great Britain engaged not to send convicts from the United Kingdom to New South Wales, New Zealand, Victoria, or King George's Sound. And, whereas, by an Act of the British Parliament, transportation to South Australia was positively prohibited. And, whereas, Lieutenant-Governor Denison, in 1847, declared to the colonists of Van Diemen's Land her Majesty's most gracious purpose, that transportation to that island should be discontinued. And, whereas, the colony of Van Diemen's Land has been deeply injured by the pouring in of enormous masses of transported offenders. And, whereas, divers and repeated attempts have been made to depart from the letter and spirit of these promises. And, whereas, the avowed object of her Majesty's Secretary of State is to transfuse the convicts disembarked in Van Diemen's Land through the Australasian Colonies, and thus to evade the spirit of the promises and Act of Parliament so made. And, whereas, large tracts of land have been purchased by the colonists from the crown; many millions of capital invested in improvements; and many thousands of her Majesty's subjects have settled in Australasia on the pledged faith of the Crown not to disturb their social welfare by the importation of crime. And, whereas, the native Australasians are entitled to all the rights and privileges of British subjects, and to the sympathy and protection of the British nation. And, whereas, many and varied efforts have been made to induce her Majesty's ministers and the British Parliament to terminate the practice of transportation to these colonies, but without success. Now, THEREFORE, the Delegates of these Colonies, in conference assembled, do declare their League and Solemn Engagement, to the effect following:—

1st. That they engage not to employ any person hereafter arriving under sentence of transportation for crime committed in Europe.

2d. That they will use all the powers they possess—official, electoral, and legislative, to prevent the establishment of English prisons, or penal settlements, within their bounds; that they will refuse assent to any projects to facilitate the administration of such penal systems, and that they will seek the repeal of all regulations, and the removal of all establishments for such purposes.

And lastly, That they solemnly engage with each other to support by their advice, their money, and their countenance, all who may suffer in the lawful promotion of this cause.



difficult task. This, was, however, fully accomplished. The members, admitted by subscription alone, elected the provincial councils, who appointed their delegates. These formed the general conference. This body enacted the rules of united operation; they appointed an executive board to carry them out, and nominated gentlemen in London to direct operations in Great Britain. The local councils retaining control over the funds collected within their bounds were authorised to contribute for common purposes, and to appoint paid delegates to carry home their remonstrances to the English government and people. Such was the constitution of the League, which may hereafter suggest the union of the colonies under the sanction of the crown. The delegates adopted addresses to the British and the Australian public. To the colonies they depicted the vast moment of this agitation, and invoked their instant and earnest aid, closing with these solemn appeals: "Ponder deeply, fellow colonists of Australia, the prospect that lies before you. Consider well the moral and even the merely economical relations of the question. Reflect on the subject of the administration of justice, not only with reference to its enormous expense, but also as to the social effect of the ceaseless and weary labours of our criminal courts. Reflect on the vast and gloomy gaols that must meet our eyes in a noble and fruitful land, where prosperity should have banished almost the remembrance of crime; on the arrays of our police that ever remind us of the noxious elements of our communities; and think, too, of our daily press that might edify a virtuous public by accounts of incessant progress and well doing, but which, faithful to the cause of truth, must ever teem with the harrowing evidence of the depravity of our fellow-beings. And again turn to the scene that so frequently closes upon the career of the convict. Consider the helpless pauperism of improvidence; constitutions ruined by vice and profligacy; asylums and hospitals overflowing with degraded and wretched outcasts, descending to the grave without respect and without sympathy, quitting a world which they had only dishonoured and abused."

"In conclusion, fellow colonists, with reference to this momentous question, let us not argue with the home government either on the law of the case, whether that be with them or with us, or on the relative power of the contending parties. The accidents of law or force, whichever way they might prevail, can never remedy the social disorders we complain of. Let us then represent to the British govern-

ment, to the British parliament, and to the British public, that in the present state and prospects of the world, it is a great moral obligation on the part of our parent state, not to eject her criminals into other societies already charged with their own, but to retain and manage them within herself."

In their address to the united kingdom they united remonstrance with warning: "We ask our fellow countrymen" said they, "to look at the map of the world; to measure the distance between England and her Australian dependencies; to mark their geographical relations with gigantic empires; and to estimate aright their future importance as elements of her wealth, greatness, and glory. If the colonists are compelled to own that their interests may be ruined by an official despatch—that their name and fame may be dishonoured, to relieve the gaols of Great Britain—if their youth cannot visit any country under an Australian flag without being made to feel that they were born in a degraded section of the globe, we are at a loss to imagine what advantages conferred by the sovereignty of Great Britain can compensate for the stigma of its brand."

"We address the words of supplication, not of threatening. A few short years, and that which is now a grievance will grow into a quarrel. By instant concession, an act of justice will become a monument of imperial clemency. But these colonies are solemnly pledged, each to the other, by their mutual interests,—their future destinies,—their fellowship of weal and woe,—and now by their League and Solemn Engagement, to achieve the freedom of their common country."

Having arranged the plan of action, the association convened a meeting of the Victorians. On the memorable 1st of February, 1851, the league was solemnly inaugurated, being signed by the Tasmanian delegates, and by the mayor, William Nicholson, Esq., William Westgarth, Esq., M.L.C., and Montgomery Bell, Esq., alderman, as delegates for Melbourne. This done, a banner of deep blue, spangled with the Southern cross, adorned with the national colors, and bordered with white on which the date of the confederation was traced in letters of gold, was unfurled and greeted with the loud acclamations of the assembly. A council of nine was afterwards elected by ballot, composed of the most eminent citizens, the mayor being president.\*

\* William Westgarth, William Kerr, William Nicholson, Dalmahoy Campbell, William Stawell, George Annand, William Bell, J. Stewart Johnstone, and John Hood, Esqrs.



It was determined to raise £20,000 as a league fund in the Australian colonies. Warmed by the advice and example of Mr. Bell, the opulent supporters of the cause resolved to take the chief burden on themselves. The delegates for Melbourne each subscribed one hundred guineas. Mr. Moor, the member for Port Phillip, added fifty to this sum as a special token of his sympathy with Tasmania. Thirty houses of business followed with one hundred guineas each. The mayor of Geelong, Dr. Thompson, set an example of similar liberality. A thousand persons met the delegates in that town; formed their own council, and embraced the league with enthusiasm. In less than a month nearly £7,000 was subscribed in Victoria alone.

But while the people were thus liberal in promoting the social freedom, their benevolence was drawn into another channel. A mournful visitation desolated the homes, and destroyed the lives of several of their fellow citizens. On the 6th of February, known as "black Thursday," the thermometer was 115 in the shade, the sun, obscured by murky mists, looked like a globe of blood, the air was loaded with smoke and ashes, and as the night closed in, columns of fire were seen every where in the distance. The uninclosed country was swept by the resistless element. Sometimes swifter than the fleetest horse, it overtook the traveller who could preserve his life only by facing round and dashing through its least impervious range. The parched leaves of the forest kindled at the first glance of the flame. Sheep and cattle fell dead—farms and stock yards were destroyed in a few minutes. In many instances the blaze encircled the unfortunate before the danger was perceived. A strong hot wind bore along ashes, and carried them far over the ocean, where falling on the decks of vessels fifty miles from land, the passengers were terrified with vague apprehension, or thought that the end of the world was come. The effects of this devastation were in some places appalling. The Barrabool Hills, near Geelong, a district of romantic beauty celebrated for its vines, and occupied by small holders, were covered with blackened ruins. The whole family of Mr. M'Leland, a settler near Melbourne, perished. The fire suddenly seized his dwelling and intercepted his escape. His wife and five children dropt one by one: he endeavoured to save his little boy, but he was suffocated in his arms; the unhappy parent was himself discovered a few hours after, by a shepherd, in a creek, where he had found refuge from his dread pursuer.

The mayor and corporation of Melbourne, then the only representative body in the province, presented the Tasmanian delegates with an address, and entertained them with splendid hospitality. A banner, bought by general subscription, was committed to their charge as a present to the colonists of Tasmania. The ladies of Victoria graced the ceremony of presentation. In giving this beautiful emblem of Australian re-union, "Gentlemen," said the mayor, "I pray you to receive it in the name of the people of Port Phillip, and may it remain nailed to the mast until these colonies are emancipated from convictism." "We accept it, with gratitude," they replied,—“May the flag which adorns it ever float above it in mild sovereignty: the noble nation from which we sprung will applaud and assist us. Such are our hopes; but whether they are doomed to disappointment or not, we shall discharge our duty as subjects, and then commit our cause to the righteous judgment of God. May He watch over our proceedings; may He permit us to add another to those bloodless victories which teach the oppressed to confide in the armour of truth while they warn all men that against weapons of such heavenly temper the shields of the mighty are lifted in vain.”

By this time the people of New South Wales became warmly interested in the league. No time was lost. To obtain the active assistance of that great colony was to insure success. Messrs. Moore and Westgarth, members of the legislature, and Dr. Thompson, mayor of Geelong, were deputed to act in the metropolis for Victoria. The delegates of Tasmania returned home. The banner intrusted to their care was publicly delivered at a meeting, of which, Mr. Dry was chairman.\* Councils were chosen for north and south Tasmania, and several thousand pounds were added to the league fund.

Messrs. West and Weston were commissioned to attend the conference at Sydney. Joined by the delegates for Victoria, they landed in March. A large concourse of citizens assembled at the Royal Hotel, where an address, breathing encouragement and hope, was read by Mr. Charles Cowper, in the name of the New South Wales association. The delegates, invited to a public banquet in honor of their mission, were met by the city members, the mayor, the principal merchants, and professional gentlemen. The im-

\* The *Raven*, Capt. Bell, was the first vessel that carried the league flag, now floating over every sea.



mense wool store of Messrs. Mort, decorated for the occasion, exhibited a striking scene of luxury and magnificence. Speeches, such as Britons make when their hearts are loyal and their wrongs are felt, promised a hearty struggle, and predicted a certain victory. A public meeting of the colonists assembled to recognise the League, and dissolve the colonial association. Dr. Lang proposed another covenant drawn up by himself. It recited the chief facts stated in that of Victoria, but added: "And if it should be necessary in the struggle upon which we are now deliberately entering, for the protection and defence of our adopted country, as well as in the vindication of our rights as Britons, . . . to have recourse to the last remedy of the oppressed, we appeal to God and the world, as to whether we shall not have indefeasible right and eternal justice on our side. So help us God." A league, based on moral force, and disclaiming all weapons but those of persuasion and entreaty, was evidently at an end if armed resistance were contemplated as the final resource. The earnest objections of the delegates were supported by Mr. Lamb. The mercantile and professional classes decidedly disapproved of the substitution; but the strength of numbers might have carried the threatening clause had not Dr. Lang consented to abandon it. Never was the league in so much danger, it being determined by the delegates to relinquish all idea of confederation on any terms inconsistent with constitutional resistance. A proposal to join the league was carried amidst triumphant cheering. A council was chosen by ballot. Messrs. Charles Cowper, Robert Campbell, and Gilbert Wright were appointed delegates for New South Wales. The most impressive meeting held by the delegates, was convened in the congregational church of Sydney. A thousand persons, chiefly heads of families, and of both sexes, listened with absorbing interest to the appeals of clergymen, protestant and catholic, to principles familiar to the patriot and the christian. The venerable metropolitan, in accounting for his absence, recorded his conviction in terms suited to his office and experience, and in a strain of reproof and warning, which no government will venture to disregard.\* The first confer-

\* "My anxiety now is, to reiterate and give permanency to the assurance, that my determination originated not in any feeling of insensibility, or indifference, towards the noble object in which you are engaged. No man, who feels as he ought to do for the country in which not only himself but his children and grandchildren are established, (which is my case), but must, from his heart, desire and pray for the success of your endeavours. As having once held the

ence of the united colonies was held in the city of Sydney and closed its labours on the 1st day of May, 1851. A permanent executive board and a London delegation, were nominated; Mr. Charles Cowper being appointed the first president of the Australasian League, and Mr. Gilbert Wright, secretary.

The appointment of Mr. J. C. King as the delegate for Melbourne, and other gentlemen resident in London to act in the same capacity, was intended to agitate the colonial cause beneath the walls of parliament, and thus by multiplied agencies to weary the ministers into justice—to conquer their obstinacy by a perpetual coming. It was the earnest desire of the founders of the league to employ all possible means consistent with loyal and constitutional principles, that the blame of ultimate consequences, if adverse, might remain with the servants of the crown. A letter of instructions addressed to Mr. J. A. Jackson and other delegates by the executive board of the league and signed by the president, stated clearly the duties which devolved upon them. “You will bear in mind that yours is the work of testimony, that we do not hold you responsible for the result. We are discharging by you a duty we owe to the parent country. We wish you to state our case; to deprecate the evils we suffer. We wish you to depict the vast resources and unrivalled beauty of these colonies, and to insist on the injustice and folly of degrading them to the purposes of a prison. We are anxious that you should tell our countrymen at home, that here is a land capable of boundless prosperity, that our whalers fish upon our coasts, that we number our sheep by millions, that our wheat is famed in every market in the world; that there are millions of acres over which the plough may be driven, and where the axe is not required as pioneer. You will tell them that we love our native country, and rejoice in our share of her heritage of glory, that we offer our filial duty

spiritual charge over all the colonies to which your league extends, and, in a certain sense, continuing still to do so, I hope my feelings towards them are such as become that relation; and my persuasion is, that to extend, or resume, or continue the practice of transportation to any one of them, must be injurious to all. . . . A perseverance in this policy would tend more than almost any other cause that could be mentioned, to weaken the respect which is now so generally entertained for the name of England. It cannot be supported if England cause herself to be regarded as the author of a continual wrong; and if respect be forfeited, the principal tie of love and obedience will be severed. It is impossible to believe that any British statesman will be found, who, upon the ground of policy, and, still less, upon a principle of justice, will recommend the continuance of the practice against which you are united in petitioning.”—*Letter of the Lord Bishop to Charles Cowper Esq., and Charles Kemp, Esq.*



and manly affiance, but, that we offer them on this condition, that we, and our children, and their country, shall be *free*. This granted, every hour will strengthen the relations already established between us; but should the object of our League, so near to our hearts, fail us, should the British public prove deaf or indifferent, or the minister prove inexorable, your mission will have been discharged; and we must await, as best we may, the development of those providential purposes which are often most obscure when they are nearest the dawn. 'England has no right to cast out amongst other nations, or upon naked shores, either her poverty or her crime. This is not the way in which a great and wealthy people, a MOTHER OF NATIONS, ought to colonize.'

"Never has the question of transportation assumed a greater importance than at the present moment. The colonists are fretted by the vacillation of her Majesty's government, but they are anxious to know that their honor and happiness are compatible with their present political relations. The plantation of new colonies in our vicinity, the now constant intercourse with the American continent, the discovery of gold fields, large in extent and abundant in production, on the Western Cordilleras of New South Wales, and the thence certain rapid influx of population, all make the future an object of solicitude. It may be your happiness to contribute to the achievement of this great moral victory, to the removal of those intolerable burdens imposed by a despotic minister, and permitted by the indifference of the British Nation,—and thus to the establishment of a closer union between these colonies and the parent state."

The chief reliance of the confederates, however, was on the approaching elections. The new constitutional act demanded a fresh appeal to the people. The constituencies of the Australian world were to decide its fate. The issue was no longer doubtful, except where the right of voting was conferred on few, and the influence of squatters paramount. Such places, were however, comparatively numerous, and a hard and earnest struggle was expected in the northern district of New South Wales. The conference of the League terminated its sittings on the 1st of May. On the 5th, the official corps of Victoria, the representatives and the delegates, left the wharf of Sydney, and amidst the cheers and forebodings of many quitted a political connection which had been often the source of angry strife. Victoria and New South Wales were now separate governments. The new

colony, gigantic in its youth, threatened the supremacy of the middle district, while Moreton Bay was clamorous for a separate executive.

But on the 6th of May a discovery was announced, which changed the fortunes of the Australian empire. The predictions of science were fulfilled. It was stated in the *Quarterly Review*, (Sept. 1850), that New South Wales would probably be found wonderfully rich in precious metals. Scarcely had the conjecture reached the colony before it was verified, and Mr. Hargraves, a practical miner, discovered the gold of Bathurst. It was felt by the former apologists of transportation that the policy of England must condemn its continuance not less than the interests of the Australias. Mr. Wentworth was the first to announce the altered position of the question. He reminded the electors that he was originally opposed to the revival or continuance of transportation, could it by any means be got rid of in the whole Australian group, and that this was no longer impossible; "that a new and unexpected era had dawned, which in a few years would precipitate the colony into a nation." He, therefore, pledged himself to join with them in any remonstrance intended to terminate transportation, and to prevent the formation of any penal settlement in the southern hemisphere.\* This manifesto was adopted by the former advocates of transportation in New South Wales, from the loftiest even to the least. Gold fields beyond the dreams of oriental vision were rapidly unfolded. The relations of labor and capital were entirely deranged, and the future became uncertain and perplexing. A few employers who imagined that their personal interests would be considered, grew more earnest for convict labor, not thinking how it could be retained, or caring for the crime and misery it might entail. But they were few. More generous spirits sympathised with the general aspect of a change which promised to people a region as fair and fertile, and as large as Europe. The strenuous resistance of transportation had cleared the character of the colonists, and proved that their feelings harmonised with the universal and unchangeable convictions of mankind. The first news of this great discovery was accompanied by the strongest evidence of Australian loyalty to the common law of nations. "The success of the confederation (said the first journal of Europe), forms a remarkable indication of a feeling in all the Australian colonies of a more elevated

\* Address to electors, July, 1851.



character than they have hitherto obtained credit for. It becomes more than ordinarily important to ascertain the exact nature of that moral and social atmosphere which so large a number of our countrymen are probably destined to breathe (October '51)."

On their return to Tasmania the delegates were greeted with addresses and public demonstrations. The settlers, with a manly consistency, despite the threatened scarcity of labor, adhered to their flag and responded with cheers to those who predicted a temporary struggle and a bright futurity. But the agents of the convict department endeavored to rekindle the last embers of jealousy and hate. To the employers they predicted ruin; to the houseowners, desolation and emptiness; to the publicans the reign of puritanism; to the emancipists the ascendancy of the free, to be followed by unextinguishable persecution. All the sentiments and epithets known in Irish polemics and Irish seditions were re-arranged in the convict service, and scattered with profusion. The League was assailed with peculiar virulence, and all its distinguished adherents held up to scorn as religious and immoral men, as hateful for their covetousness and contemptible for their poverty. Sometimes they were locusts, swarming everywhere; at others they were a scattered and miserable remnant—which the government and the convict party would speedily sweep away. The governor himself during a procession through the colony was cheered as the great champion of the pardoned, and placards represented that he had defeated a scheme of the settlers to deprive them of their votes. He entered the city in state—and while he passed under a triumphal arch, Mr. West, the Hobart Town delegate, was publicly gibbeted. But the Trades' Union, and an association of the Native Youth, assembled in the evening, and in the presence of many thousands, the well-dressed effigies of Earl Grey and the governor were thrown into an enormous fire.

Meanwhile the league was extended to South Australia. All the members of the legislature, except the officials, joined in a requisition to receive Messrs. West and Bell as delegates from Tasmania and Victoria (August, '51). All denominations warmly advocated the cause. The largest assembly ever gathered there—and including men who had never before united—carried the resolution, moved by the Bishop of Adelaide, "that the total cessation of transportation to the Australian colonies is essential to their honor, happiness, and prosperity." A meeting at Canterbury, New

Zealand, called by Mr. Godley, adopted and subscribed the engagement (October, '51). Thus the five colonies, answering to the stars of the Southern Cross, had raised that sign of hope and union.

The writs for Tasmania were at length issued. The day of general nomination was remarkably brilliant. The principal candidates were attended with numerous banners and long processions. The ladies wore the colors of their parties, and even the children to the number of several hundreds, marched in the train of Mr. Dry, the popular candidate for Launceston. On one of their banners a passage taken from a pamphlet of the day was inscribed—"The last link of despotism is broken, when the children of the soil decree its freedom." The native youth for the first time bore an active share in this last attempt to secure the liberties of their country, and, in a public assembly, to petition for its success, displayed both moderation and ability—highly creditable considering the disadvantages under which they had labored. These efforts were successful. The country districts were in three cases disputed by the transportationists. They polled little more than a hundred votes, but in Hobart Town a more serious conflict was expected. Beside the lower class of expirees, many of the publicans and almost all in the service of the government were in favor of transportation, or compelled to support it. Mr. Young, a solicitor, after several candidates had offered and retired, determined on a contest with Messrs. Chapman and Dunn, the chairman and treasurer of the local league council: more than five hundred votes were polled in his interest, but the friends of freedom carried their candidates by a triumphant majority. The election at Hobart Town, accomplished in the face of every obstacle, demonstrated the strong and irrevocable desire of the people. The day of nomination was memorable in British history, the day when the signal of Nelson ran through the fleet—"England expects every man will do his duty." The speakers did not omit to apply an example so striking. A despatch of Sir William Denison (May, '50), recommending the grant of lands and other advantages to reconcile the less incorruptible advocates of abolition and marked "confidential," had just reached the colony, having been unaccountably inserted in the blue book. The moral choice of the people was still more strikingly manifest, when they disregarded such offers, whether considered as compensation or bribes, and rejected every advocate of transportation. Such appeals as the



following were not heard in vain. "Now, let our signal be—'Tasmania expects every man to do his duty!' The first earnest of your privileges must be the utter extinction of slavery in this your adopted land. By your most cherished associations—by all that you hold most dear—by the love you bear your domestic hearths—by the claims and cries of your children—by the light of that freedom, your common inheritance, which has now for the first time dawned upon you, which has gilt your mountains and gladdened your valleys,—by the spirit of emancipation, and which at this very moment is beating in unison in strong pulsations through every artery of the island, until I can almost fancy that Nature herself heaves and sympathises with the universal emotion,—I call upon you, adjure you, to cast off every unworthy feeling, and remember only 'to do your duty' towards your own—your adopted land."\*

By a violent exertion the convict party were held together until the day of polling:—then they disappeared with noise and riot, and were seen no more.

The reputable emancipists joined their emigrant countrymen. They held the balance in their hands. In the main they proved true to the principles which hold society together, and followed the dictates of parental affection. Many not actual members of the league supported its principles so far as they contemplated the social freedom of the Australian world. Thus all the preliminary steps were taken to secure the voice of the legislative councils, and throughout the southern hemisphere no representative of the people was found to stand up as the advocate of transportation. The proper moment for confederation had been found. A few months before it was unthought of—a few months after it would have been impracticable. The speech of Earl Grey, was intended to extinguish finally all hope of freedom, but struck out a spark and kindled a flame which none can quench.

The representatives were true. The council of New South Wales, the earliest to assemble, struck the first blow for Australasian liberty. They voted, not for the deliverance of their own colony only, but for the rescue of Van Diemen's Land. Mr. Lamb proposed resolutions charging Earl Grey with perfidy—Mr. King sought the same object in a milder form, and in November the whole house concurred in condemning transportation. The Victorian legislature, on the

\* Mr. MacDowell's speech.

motion of Mr. Westgarth, adopted a similar protest, though in stronger terms. Supported by the law officers of the crown, the resolutions passed with perfect unanimity (Dec.), and they were promptly forwarded by Governor Latrobe, who expressed the warmest interest in their success. Thousands of expirees and absconders, allured by the prospect of sudden riches, descended upon that province and filled the inhabitants with astonishment. Hundreds who arrived in Van Diemen's Land in bondage, and many who quitted it without leave, became by a few days spoil, masters of from one hundred to a thousand pounds.

On the 16th December (1851), a series of resolutions were passed by the legislature of South Australia on the motion of Mr. Hall. Thus, three colonies, by a unanimous vote, pronounced the doom of transportation. Their governors were silent or approving. All, whether servants of the crown, or representatives of the people, united in one voice. Tasmania was the last to obtain the constitutional organization. On the 30th of December the governor met the men of the people, and found not one to sustain the policy of transportation. Mr. Dry, the first country born legislator, was unanimously elected to the speakership. The address presented to Sir Wm. Denison expressed deep regret that he had not considered it necessary to notice the all important subject of transportation, the violation of a pledge—broken by the ministers of the crown, or had been able to announce that his own earnest representations had concurred with the unanimous desire of the Tasmanian constituencies. This complaint he received in silence. On the 14th of January, the subject was brought before the house by Mr. Sharland, who moved twelve resolutions. They recorded the violated pledge of Earl Grey, the protests of the colony against transportation; they professed the warmest loyalty to the throne, and attachment to Great Britain, and they pronounced the unchangeable opposition of the house to transportation. The discovery of gold was stated as calculated to induce her Majesty's ministers to comply with the petitions of the people; "but if it should unhappily be otherwise" said the faithful representatives of Van Diemen's Land, "it is our duty as colonists, and as British subjects, to exert to the utmost all the power with which this council is invested, to oppose, and if possible to defeat, every measure that may be suggested or attempted for the introduction of criminals into this country, at any time, or under any circumstances."



For this resolution none but representatives of the people voted ; against it, none but the nominees of the crown.

The triumph of this cause was the work of many and the labour of years. Thousands of articles often distinguished for ability, appeared in the colonial papers, and thus ripened the public mind to vigorous action. Many who have toiled survive to participate in the gladness of success : others have passed to the grave ; among these the names of Archer and Oakden will recur to colonial remembrance. A future generation will best appreciate the value of that noble stand made against the allurements of real or imaginary gain, and the children of Tasmania will delight to inscribe the patriot's name in the record of their country's redemption.

But the impartiality of history demands a confession, less favorable to the colonists at large, and which must arrest a deliberate and absolute judgment against the ministers of the crown. The voice of employers too long favored transportation, and their temporary interests were preferred to their ultimate welfare. The press visited the friends of social freedom with sarcasm and contempt, and described them as purists and fanatics. Until the last ten years the colonial will has been neither steady nor distinct. Emigration and time have wrought a change in the prevailing feeling. Nor should it be forgotten that the first colonies of this hemisphere were planted for the punishment of crime and the reform of criminals—that those who came to share their fortunes, necessarily inherited their dishonor, and that we require the abandonment of a policy once thought profoundly wise, and which was scarcely questioned for more than three score years.

The opposition of Sir William Denison to the colonial will on this subject, his injustice to the judges, and his sarcastic delineations of colonial character, have narrowed the circle of his friends. In future times an opinion more favorable to his reputation may be expected to prevail. It will then be remembered that he promoted the advancement of science, fostered liberal education, increased the facilities of commerce, abated the practical evils of the convict department, advocated the principles of legislative freedom, and, by a respectable private character, sustained the moral dignity of government. But even then it will not be forgotten, that in perpetuating the convict curse, he adopted any argument, however false, and tolerated any ally, however abject.

# **HISTORY OF TASMANIA.**



## **ZOOLOGY.**





# ZOOLOGY.

## SECTION I.—MAMMALIA.

THE most perfect list of the mammals of Australia which has yet appeared is in the appendix to Capt. Gray's *Travels in North-west and Western Australia*, compiled by J. E. Gray, Esq., of the British Museum. Since its publication (1841) a few additional species have been added to the fauna of Tasmania, and a few of the smaller animals, probably, remain still to be described; but they will not materially affect the following list, which is compiled from the table by Mr. Gray, and a subsequent *History of the Marsupialia*, by G. R. Waterhouse (1846):—

ORDERS.	GENERA.	Total No. of Species in Tasmania.	Peculiar to Tasmania.	Common to Australia and Tasmania.
CHEIROPTERA	{ Nyctophilus .....	1	—	1
	{ Scotophilus .....	2	—	2
	[ Thylacinus .....	1	1	—
	Dasyurus .....	3	2	1
	includes <i>Diabolus</i>			
	Phascogale .....	3	3	—
MARSUPIALIA	includes <i>Antechinus</i>			
	Perameles .....	2	1	1
	{ Phalangista .....	3	1	2
	includes <i>Hepoona</i>			
	Phascolomys .....	1	—	1
	Hypsiprymnus .....	2	1	1
RODENTIA...	includes <i>Bettongia</i>			
	Macropus .....	3	1	2
	includes <i>Halmaturus</i>			
EDENTATA, OR MONOTREMATA	{ Hydromys .....	1	—	1
	{ Mus .....	2	1	1
	{ Ornithorhynchus .....	1	—	1
	{ Echidna .....	1	1	—
		26	12	14



This makes a total of twenty-six mammals inhabiting Tasmania, exclusive of the *Seals* and *Cetacea*, with which our acquaintance is still very imperfect.

From the above list it will be perceived, with the exception of the three bats, two mice, and one water-rat, that all our mammals are either Marsupial (pouched) or Monotrematous (a closely-allied form, to which belong the platypus and porcupine of the colonists). Orders found in other countries, such as the *Pachydermata* and *Ruminantia*, are in Tasmania wholly wanting, as they are also throughout the extensive continent of Australia.

It is also remarkable that twelve out of the twenty-six animals are peculiar to this small island, and have not yet been detected elsewhere. Amongst those thus limited in their geographical range are the tiger and devil of the colonists, the two largest indigenous Australian carnivorous quadrupeds.

Australia is the great metropolis of the marsupial animals. Certain species of the group are found in North and South America, and in New Guinea, the Moluccas, and adjacent islands, but the numbers seem limited as compared with the other indigenous quadrupeds of those countries. Professor Owen observes:—"That the marsupialia form one great natural group is now generally admitted by zoologists. The representatives in that group of many of the orders of the more extensive placental sub-class of the mammalia of the larger continents have also been recognised in the existing genera and species:—the *Dasyures*, for example, play the parts of the *Carnivora*, the *Bandicoots* of the *Insectivora*, the *Phalangiers* of the *Quadrumania*, the *Wombat* of the *Rodentia*, and the *Kangaroos*, in a remoter degree, that of the *Ruminantia*."\*

The Tiger or Hyæna of the colonists (*Thylacinus cynocephalus*, Harris) is a very powerful animal, about the size of a large dog, with short legs. It is of a tawny or brownish yellow color, with numerous black bands arranged transversely along the back, from the shoulders to the tail; hence the erroneous names tiger and hyæna, given to it by the early settlers. The muzzle is rather elongated, the ears short and erect, and the pupils elliptical, corresponding with its leaping, predaceous habits; if it had the characteristic brush instead of a long taper tail, its figure would bear a considerable resemblance to that of the fox. The female is

\* *History of British Fossil Mammals and Birds.*

much smaller, but more active and supple in its movements than the male. They prey upon kangaroos, opossums, bandicoots, and other native animals; hunting by night, their exquisite sense of smell enables them to steal cautiously upon these defenceless animals, in the thick covers of the low grassy flats and scrubs, or to run them down on the more open hill and forest land. They are not very fleet, but follow the track with untiring perseverance, occasionally uttering a kind of low smothered bark. They never hunt in packs, but a male and female, or a bitch, with two or three half-grown pups, have occasionally been seen together, in pursuit of game.

The Thylacine kills sheep, but usually confines its attack to one at a time, and is therefore by no means so destructive to a flock as the domestic dog become wild, or as the Dingo of Australia, which both commit vast havoc in a single night. High rewards have always, however, been given by sheep-owners for their destruction; and, as every available spot of land is now occupied, it is probable that in a very few years this animal, so highly interesting to the zoologist, will become extinct; it is now extremely rare, even in the wildest and least frequented parts of the island. A male and female were sent to the Zoological Society of London during the present year (1850), and were the first that ever reached Europe alive.

The Devil (*Dasyurus ursinus*, Geoff.), about the size of a bull terrier, is an exceedingly fierce and disgusting looking animal, of a black color, usually having one white band across the chest, and another across the back, near the tail. It is a perfect glutton, and most indiscriminate in its feeding; nothing comes amiss to it; it lives chiefly upon carrion, the smaller native animals, and occasionally attacks sheep, principally, however, lambs and the weakly or diseased; even one of its own kind, caught in a snare, is attacked and devoured without mercy. They are very numerous in some localities, and from their smaller size will probably longer survive the war of extermination carried on against them.

The other two species of *Dasyurus*, viz., the Tiger cat (*Dasyurus maculatus*, Shaw) and Native cat (*Dasyurus viverrinus*, Shaw), are similar in their habits to the pole-cat and marten of England, from which they do not differ materially in size, and prove equally destructive to the poultry yard. The Native cat varies a good deal in color, many being black with white spots; but the usual and prevailing color is a greyish tan or yellow, with white spots; and from these mere varieties some naturalists have constituted two species.



Great numbers of Native cats are killed in some localities for the sake of their skins, which are formed into rugs by the shepherds.

The Phascogales are small insectivorous animals, found on the mountains and in the dense forest parts of the island, and little is known of their habits.

The two species of Bandicoot (*Perameles obesula*, Shaw, and *P. Gunnii*, Gray), are very common throughout the colony, living upon insects and roots.

The Opossums usually abound where grass is to be found, lodging by day in the holes and hollows of trees. The most common species is the *Phalangista vulpina* (Shaw), under which is placed both the black and grey opossums. These animals are much sought after by the servants on most farms for the sake of feeding their dogs with the flesh, and forming the skins into rugs; an opossum (or kangaroo) skin rug being the principal bedding of all the shepherds, stock-keepers, and laborers in the more remote parts of the colony. When travelling from one station to another, and sleeping in the open air, these men always carry a rug with them; and wrapped in this, with his feet to the fire, the bushman sleeps on the ground warm and comfortable, even in the coldest nights, with no other shelter save a log or a few boughs to windward; and this was generally all the shelter used by the aborigines. The fur on the opossums in the mountains and cooler parts of the island is thicker and better adapted for rugs than on those obtained from the sea coast or the warmer settled districts. The Ringtail opossum (*Phalangista* or *Hepoona Cookii*, Desm.) is smaller, less common, and less sought after, for dogs will not eat the flesh of the Ringtail even when roasted.

The Flying squirrel, or opossum of Port Phillip (*Petaurus sciureus*, Desm.), was introduced from that colony between the years 1834 and 1839: many of those so introduced escaped from confinement, and from the numbers which have been killed around Launceston since that period they have evidently increased and established themselves amongst the denizens of our woods. No species, however, of flying opossum is indigenous to Tasmania.

The Wombat, more commonly called in the colony Badger (*Phascolomys wombat*, Peron.), is an animal weighing forty to eighty pounds, having a large body, with short legs: Notwithstanding its burrowing habits, and the excessive thickness and toughness of its skin, it is usually so easily killed, that it is becoming less and less common.

The Kangaroo rats (*Hypsiprymnus cuniculus*, Ogilby, and *H. murinus*, Ill.) are small animals, like kangaroos in their form and mode of progression, but require few remarks, as they are not killed either for food or their skins. They are not numerous anywhere. Dogs will not usually eat them.

Our best known animals, however, are the Kangaroos, of which we have three species, distinguished by the names of Forester, Brush, and Wallaby.

The Forester (*Macropus major*, Shaw), the male being known by the name of "boomer," and the young female by that of "flying doe," is the largest and only truly gregarious species,—now nearly extinct in all the settled or occupied districts of the island, and rare everywhere. This species afforded the greatest sport and the best food to the early settlers, an individual weighing 100 to 140 pounds. It is much to be regretted that this noble animal is likely so soon to be exterminated. It was usually hunted by large powerful dogs, somewhat similar to the Scotch deer hounds; and when closely pressed had the remarkable peculiarity of always taking to the water where practicable. A modern kangaroo hunt has been thus graphically described by the Honorable Henry Elliot, in Gould's splendid work on the Macropodidæ:—

"I have much pleasure in telling you all I know of the kangaroo-hunting in Van Diemen's Land. The hounds are kept by Mr. Gregson, and have been bred by him from fox-hounds imported from England; and though not so fast as most hounds here now are, they are quite as fast as it is possible to ride to in that country. The 'boomer' is the only kangaroo which shows good sport, for the strongest 'brush' kangaroo cannot live above twenty minutes before the hounds; but as the two kinds are always found in perfectly different situations we never were at a loss to find a 'boomer,' and I must say that they seldom failed to show us good sport. We generally 'found' in a high cover of young wattles, but sometimes we 'found' in the open forest, and then it was really pretty to see the style in which a good kangaroo would go away. I recollect one day in particular, when a very fine 'boomer' jumped up in the very middle of the hounds, in the 'open:' he at first took a few high jumps with his head up, looking about him to see on which side the coast was clearest, and then, without a moment's hesitation, he stooped forward and shot away from the hounds, apparently without an effort, and gave us the longest run I ever saw after a kangaroo. He ran fourteen miles by the



map from point to point, and if he had had fair play I have very little doubt but that he would then have beat us; but he had taken along a tongue of land which ran into the sea, so that, on being pressed, he was forced to try to swim across the arm of the sea, which, at the place where he took the water, cannot have been less than two miles broad; in spite of a fresh breeze and a head sea against him, he got fully half-way over, but he could not make head against the waves any further, and was obliged to turn back, when, being quite exhausted, he was soon killed.

"The distance he ran, taking in the different bends in the line, cannot have been less than eighteen miles, and he certainly swam more than two. I can give no idea of the length of time it took him to run this distance, but it took us something more than two hours; and it was evident, from the way in which the hounds were running, that he was a long way before us; and it was also plain that he was still fresh, as, quite at the end of the run, he went over the top of a very high hill, which a tired kangaroo never will attempt to do, as dogs gain so much on them in going up hill. His hind quarters weighed within a pound or two of seventy pounds, which is large for the Van Diemen's Land kangaroo, though I have seen larger.

"We did not measure the length of the hop of this kangaroo; but on another occasion, when the 'boomer' had taken along the beach, and left his prints in the sand, the length of each jump was found to be just fifteen feet, and as regular as if they had been stepped by a sergeant. When a 'boomer' is pressed, he is very apt to take the water, and then it requires several good dogs to kill him, for he stands waiting for them, and as soon as they swim up to the attack, he takes hold of them with his fore feet, and holds them under water. The buck is altogether very bold, and will generally make a stout resistance; for if he cannot get to the water, he will place his back against a tree, so that he cannot be attacked from behind, and then the best dog will find in him a formidable antagonist.

"The doe, on the contrary, is a very timid creature, and I have even seen one die of fear. It was in a place where we wished to preserve them, and as soon as we found that we were running a doe we stopped the hounds, just at the moment they were running into her. She had not received the slightest injury, but she lay down and died in about ten minutes. When a doe is beat she generally makes several sharp doubles, and then gets among the branches or close to

the trunk of a fallen tree, and remains so perfectly still that she will allow you almost to ride over her without moving, and in this way she often escapes.

"A tolerably good kangaroo will generally give a run of from six to ten miles; but in general they do not run that distance in a straight line, but make one large ring back to the place where they were found, though the larger ones often go straight away."

The Brush kangaroo (*Macropus* [*Halmaturus*] *Bennettii*, Waterh.) is universally distributed over Tasmania, and in some localities was formerly very numerous indeed, but the war of extermination constantly waged at all seasons against this species, for the sake of its skin, has, in many places, entirely destroyed it, and rendered it scarce everywhere. Many thousands of skins have been annually exported from Launceston alone, and nearly all the leather used in the colony for ladies' and gentlemen's boots and shoes is made from the skin of the brush kangaroo, which is thicker and better than that of the larger species.

The Wallaby (*Macropus* [*Halmaturus*] *Billardieri*, Desm.) is the smallest species of kangaroo, and inhabits thickets; and although described by Mr. Gould as being gregarious, is never seen in flocks, as is the forester kangaroo.

All the different species of kangaroo are admirable food, and are now in much request by the residents in the towns as a delicacy, having in soup a flavor somewhat similar to that of hare. No others of the indigenous quadrupeds are usually used for food, although occasionally bushmen eat the wombat and echidna, and, more rarely, the bandicoots and kangaroo rats.

The Platypus (*Ornithorhynchus anatinus*, Shaw) has for many years been so great a subject of interest to the zoological world that little is left to detail. It is still not uncommon in the pools and small streams on the table land of the western mountains; at the source of the river Derwent, Lake St. Clair; and in most of the rivers and streams in the more remote parts. Those who feel any interest in the peculiar structure of this very remarkable animal, and its congener the Porcupine (*Echidna setosa*, Cuv.), can find full details in Professor Owen's very elaborate and admirable paper, in the *Cyclopædia of Anatomy and Physiology*, on the *Monotremata*.\*

\* It may be as well, also, to observe here that the learned Professor's article on the *Marsupialia*, in the same work, leaves little to be desired by the student who desires fuller information on the comparative anatomy of the marsupial animals.



Nearly all the Tasmanian quadrupeds are nocturnal in their habits, or, when not strictly so, feed principally during the morning and evening twilight: and as few of our mountains exceed four or five thousand feet of elevation above the sea level, most of the animals are distributed over the whole island, being merely influenced in their range by the greater or less abundance of food.

All the larger species of indigenous mammals will rapidly diminish under the united efforts of Europeans and their attendant dogs. No species is protected, and no species spared. As the *Marsupialia* are not prolific, the extinction of several species may soon be anticipated, from the circumstance that the unsettled parts of the island, to which they have been driven, are comparatively destitute of grass, and unfit for the support of graminivorous animals.

It may here be observed that the Dingo of New Holland never inhabited Van Diemen's Land; and although wild dogs were at one time troublesome in a few districts, yet they were merely the domestic dogs become wild (many having from time to time been abandoned by their masters—aborigines and convicts), and were soon destroyed. European rats and mice are now common all over the island: the domestic cat, also, has in many localities become wild, and proves very destructive to quails, and those birds which are much on the ground.

#### SECTION II.—BIRDS.

UNLIKE the mammals, there is nothing in the general aspect of the birds of Tasmania to distinguish them from those of other countries; there are, however, some peculiar forms, but they are not of such a nature as to strike the eye. Many of the birds of Europe are represented here, as the hawks, owls, swallows, snipe, ducks, &c., and not a few have received English names, from the real or fancied resemblance which they bear to their British prototypes, as the magpies, wrens, robins, &c.

Mr. John Gould, in his splendid and elaborate work, *The Birds of Australia*, has so completely illustrated and described the birds of Australia, including those of Tasmania, that little remains to be done by those who follow him.

Whether we look at this magnificent work for its beauty, or its accuracy, we cannot help feeling rejoiced that so interesting a portion of the natural history of Tasmania should have been so ably illustrated. According to Mr. Gould's work, Tasmania possesses 170 species,\* of which only a few, so far as at present known, are *peculiar* to it, that is, have not yet been found in any other part of Australia. In the 170 are included some occasional and rare visitants to our shores, but several others will, no doubt, have hereafter to be added; this is, however, a close enough approximation for all ordinary purposes.

The 170 birds may be divided into the following orders and genera :—

ORDERS.	No. of Genera.	No. of Species.
RAPTORES.....	11	13
INSESSORES .....	46	62
RASORES .....	4	6
GRALLATOES .....	20	30
NATATOES .....	29	59
	110	170

From the above table the ornithologist will form an idea of the character of our birds; but it will be well to proceed a little more into detail.

Among the thirteen raptorial birds the eagle (*Aquila audax*, Lath.) takes the foremost place. It is about the size of the golden eagle of Europe; and being destructive to young lambs in some localities, a constant war is waged against it by the shepherds, and it is becoming rapidly scarce.

The beautiful white hawk (*Astur Novæ Hollandiæ*, Cuv.), erroneously called an albino by Mr. Gould, once very abundant, is now becoming rare, having been nearly extirpated for the sake of its skin by the zeal of bird collectors. The other raptorial birds possess little to distinguish them from those of other countries.

Many of the genera of the perchers are peculiar to Australia; and the brush-like tongues of many species, formed

\* Mr. Gould, in his introduction, says 181 species, and his table shows 172; but we think he has erred in placing some birds under the head of Van Diemen's Land, which in the body of his book do not appear ever to have been found in it.



for extracting the honey from flowers, have been classed amongst the Australian anomalies. The parrot tribe is the most attractive to strangers, and eleven species, belonging to not less than eight genera, are found in Tasmania. The green and rose-hill parrots (*Platycercus flaviventris*, Temm., and *P. eximius*, Shaw) occur in immense flocks in some places, and prove very destructive to the ripe grain in the fields, as also injuring the roofs of corn stacks in the barn yards. The white cockatoos (*Cacatua galerita*, Lath.) were at one time to be seen in immense flocks, but are now becoming scarce. Many of the parrots have beautiful plumage, and the white cockatoo and rose-hill parrot have occasionally been taught to speak.

Two pigeons and four species of quail are all the rasorial birds in the island; the true gallinaceous birds being wholly wanting.

Of the thirty species of grallatores the most remarkable is the emu. Very few individuals can now exist in the island, and it is to be feared that its total extinction will be effected ere it can be ascertained whether the Tasmanian bird is identical with that of New Holland. Tame emus are common in the colony, but the original stock of most of those now domesticated was introduced from Port Phillip.

The fifty-nine species of swimming birds include many sea birds which inhabit the Antarctic, Southern Indian, and South Pacific Oceans. That "*rara avis*," the black swan, once so common that rivers, bays, points, &c., received their names, but a few years ago, from its abundance, is now becoming truly a *rara avis* in the settled parts of the island, having been driven from its old haunts by that great intruder, the white man. Ducks are numerous, of many species, and form admirable articles of food. The sooty petrel (*Puffinus brevicaudus*, Brandt.), or mutton bird, occurs in immense flocks in Bass' Strait. Captain Flinders, in his *Voyage to Terra Australis*,\* says that when near the north-west extremity of Van Diemen's Land he saw a stream of sooty petrels from fifty to eighty yards in depth, and of three hundred yards or more in breadth. The birds were not scattered, but flying as compactly as a free movement of their wings seemed to allow; and during a full hour and a-half this stream of petrels continued to pass without interruption, at a rate little inferior to the swiftness of the pigeon. On the lowest computation he thought the number could not

\* Vol. I., introduction, p. 170.

have been less than a hundred millions. This bird burrows in the ground, forming what are called by the sealers in the Straits, *rookeries*; and a considerable trade was at one time carried on in their feathers, eggs, and salted bodies.\*

With the exception of the pretty but gaudy parrot tribe, our most beautiful birds may be said to be the wren (*Malurus longicaudus*, Gould), the grosbeak (*Estrela bella*, Lath.), the king-fisher (*Alcyon Diemenensis*, Gould), the diamond birds (*Pardalotus* species), and the satin fly-catcher (*Myiagra nitida*, Gould). None of the birds equal the songsters of Europe, although many have sweet notes, and some are musical, as the magpie (*Gymnorhina organicum*, Gould), that lively bird whose cheerful notes delight the ear of every traveller at early dawn in the settled districts of Tasmania, to which it is restricted.

The distribution of the birds of Tasmania is very partial, differing in this respect remarkably from that of the animals. The supply of the peculiar food suitable to particular genera and species necessarily affects their range, and as one half of the island is still covered by the dense primæval forests, so in that portion few of the birds inhabiting the settled districts are to be found. Several of them follow the footsteps of man, and as his clearings take place in the remote wilds, and corn-fields spring into existence, so many grain-eating birds make their appearance. This is entirely irrespective of the regular annual migrations of numerous species from New Holland to Tasmania, which, in this respect, follow the same law which governs the migrations of species inhabiting similar latitudes in the other hemisphere. The snipe and swallows usually arrive in Van Diemen's Land during the first week in September; and during that month most of those birds which migrate for the purpose of breeding also make their appearance. In April, or soon after, the various summer visitants take their departure northwards. Mr. Gould observes:—"There are also periods when some species of birds appear entirely to forsake the part of the country in which they have been accustomed to dwell, and to betake themselves to some distant locality, where they remain for five or ten years, or even for a longer period, and whence they as suddenly disappear as they had arrived."

The only birds shot as game in the colony are quail and

\* For a very full and excellent description of the habits of this bird see a paper by R. H. Davies, Esq., in the *Tasmanian Journal*, Vol. II., p. 13.



snipe. Quail shooting commences on 1st April, and snipe shooting about 1st September.

### SECTION III.—FISHES.

SIR JOHN RICHARDSON has described many species of Tasmanian fish in the *Transactions of the Zoological Society*, and, more recently, some additional species in the *Zoology of H. M. S. Erebus and Terror*. To these works we must refer for scientific details, but many are still undescribed, and of the habits of our fish in general but little is known. Every season new species are brought to market at Hobart Town and Launceston, and no doubt many more species yet remain to reward the zealous fisherman who will explore the various banks off our coasts. The depth of water throughout the whole of Bass' Strait, and between the numerous islands which dot its eastern and western extremities, ranges between twenty and fifty fathoms only, the latter being the greatest depth. In such localities, and more especially amongst the islands, where numerous currents occur, fish may be expected to abound; but as yet no attempt has been made to extend the fishing beyond the shallow smooth water at the mouths of our rivers and estuaries.

Not only are many of the Tasmanian fish admirable as articles of food, but there is every reason to believe that they might be caught in sufficient numbers to form a valuable export to those countries where salt fish is esteemed. The best for this purpose would be that commonly known as the "king-fish" (a species of *alepisaurus*), about the size of a cod, the *habitat* of which is still unknown; but which comes regularly every season, during the months of May to July, into the shallow waters along the coasts, to spawn. It most probably permanently inhabits some of the banks in Bass' Strait.

The species considered finest for the table is one called the Trumpeter, found commonly in the estuary of the Derwent and Storm Bay, but which is rarely caught on the northern coast. Flounders, gar-fish, gurnett (*Sebastes maculatus*), and several other species of sea-fish, a bare list of which would convey little information, are frequently and usually brought to market.

The rivers of Tasmania are not so well supplied with fish as those of many other countries. The largest, except an eel, is one called the black-fish, which, in some of the rivers which discharge themselves into the sea on the north coast, attains a weight of six to eight pounds. This fish, it is said, does not exist in the river Derwent, or in any of its numerous tributaries. The mullet (or fresh water herring) is a fine, well-flavored fish, weighing usually about five ounces, and is the only one affording sport to the angler. These, with a species of trout, two lampreys, and, perhaps, two or three very small species not usually noticed, complete the list of those which inhabit our streams and lakes.

The colonists are now anxious to introduce the Salmon into the Tasmanian rivers, for which they seem admirably adapted. Hitherto the attempts have been made from Scotland, and failed; but it is supposed that the west coast of North America would afford a more favorable and accessible station from which to introduce the salmon of that country, which, although not so highly flavored as the Scotch species, would still be a most desirable acquisition.

Some species of fish are poisonous at all seasons, as the toad-fish (*Apistes marmoratus*); others are only occasionally so; and the degree of poisonous effect would seem to depend not only upon the state of the fish, but to vary very much in different persons who partake of them at the same time. There is nothing, however, in these properties of the Tasmanian fish to distinguish them from those of many other countries where similar peculiarities exist.

#### SECTION IV.—REPTILES.

It will not be necessary, in a work like the present, to do more than notice in very general terms this and the subsequent departments of zoology, upon none of which have any separate works been published.

Snakes exist all over Tasmania; all are believed to be poisonous, and some are well known to be so. They inhabit all localities, from the level of the sea to the summits of the loftiest mountains (about five thousand feet). The number of species is still undetermined, but there are believed to



be at least ten, although it is probable that the young of some kinds may have been mistaken for distinct species. The largest are usually four to five feet long, attaining occasionally, though but very rarely indeed, to a length of six feet. The greater number, however, are very much smaller, and are very various in color. Comparatively few instances have occurred wherein the bite of the snake has proved fatal to human life, and this, considering the immense number of snakes throughout the island, may be deemed remarkable. Numerous instances, however, of the death of horses, cattle, sheep, and dogs, have been recorded; but the particular species causing death in each instance has not been noted with precision; so that there are considerable doubts with many well-informed persons whether some innocuous kinds may not, like the ringed snake of England, be classed amongst their poisonous congeners, and indiscriminately killed with them.

Next to man the hawk tribe are their most powerful and persevering enemies; and it would be wise on the part of the colonists if they forbade their servants to destroy those beautiful and, in this respect, most useful birds. Lady Franklin, during the government of her husband, Sir John Franklin, with her wonted liberality and kindness of heart, offered a reward of one shilling per head for every snake killed throughout the island. During the first year she paid about £700, for nearly fourteen thousand snakes killed. Subsequently she discontinued this reward, having ascertained that it would not, at that time, prove permanently beneficial, as from the very great extent of waste and unoccupied land, where snakes could breed undisturbed, they were brought down in vast numbers to the inhabited parts of the island by the flooded streams and rivers; but it now becomes a question, when so much more of the island is occupied, whether our local legislature might not wisely renew the offer of a moderate reward for the destruction of these obnoxious and much dreaded reptiles.

Lizards and frogs, of various species, are common, but possess no peculiar interest. A species of turtle has been occasionally washed ashore upon the east coast, brought, no doubt, from the east coast of New Holland by the current which sets from that direction towards Van Diemen's Land.

## SECTION V.—INSECTS.

No work on the entomology of Tasmania has yet appeared, although few countries offer a wider or better field to the zealous entomologist, and it possesses many most interesting species.\*

There is a great preponderance of *Coleoptera* over the other orders. Some European forms are common; and several species, as the weevil, apple aphid, slug, &c., have been introduced, and prove most injurious, as they increase with unusual rapidity. The domestic bee was brought to Van Diemen's Land from England by Dr. T. B. Wilson, R.N., in the year 1834; and so admirably does the climate of this island suit this interesting insect that in the first year sixteen swarms were produced from the imported hive! Since that time they have been distributed all over the island, and have been sent to all the adjoining colonies; all those in Australia having been derived from the one hive. In Tasmania they are becoming wild in great numbers, spreading themselves rapidly through all the forests, even to the summits of the western mountains.

## SECTION VI.—MOLLUSCA.

Of the mollusca inhabiting the shores of the island many are highly interesting, and several are very beautiful. The rare *Cypræa umbilicata* (Sowerby) inhabits Bass' Strait, as also *Trigonia margaritacea* (Lam.), *Voluta papillaris* (Swainson), *Venus lamellata* (Lam.), *Crassatella kingicola* (Lam.), *Solenomya Australis* (Lam.), a species of *Terebratula*, and many others most interesting to the conchologist, and not less so to the geologist, as some forms are now found living abundantly

\* Two hundred and sixty-two species of Tasmanian insects were described by the German entomologist Erichsen, in *Wagner's Archives* for 1842. The Rev. T. J. Ewing, of New Town, the most zealous and able Tasmanian entomologist, in a paper in the *Tasmanian Journal*, vol. iii., p. 456, quotes the following works, where descriptions of Tasmanian insects may be found:—*Leach's Zoological Miscellany*, *Entomological Magazine*, *The Entomologist*, *Transactions of the Entomological Society of London*, and *Annals of Natural History*.



in the Australian seas which are only known in the old world as occurring in a fossil state.

Our Argonaut, or paper nautilus (*A. tuberculosa*, Lam.), is quite distinct from the European species, and scarcely less beautiful. It is occasionally washed ashore in considerable numbers on the islands in Bass' Strait. The beautiful *Janthina fragilis* has been washed ashore with its inhabitant on the east coast.

Although many forms are almost purely Australian, there are, nevertheless, a great number of European types, such as species of *Mytilus*, *Venus*, *Pecten*, *Ostrea*, *Patella*, &c.

The only kind of shell-fish commonly consumed as an article of food and brought to market is a species of oyster. With the aborigines, however, shell-fish formed a very considerable and important article of diet. La Billardiere\* describes their diving for *Haliotis* at Recherche Bay; and abundant remains of their feasts still exist all along the coasts, and, in some places, many miles inland, the shell-fish having been carried in baskets by the women, to situations where fresh water was to be found. The sites of these aboriginal feasts are usually easily to be distinguished from raised beaches, or those accumulations of shells caused by change in the relative levels of sea and land. They may be known by their isolated character and position; by their forming, in many instances, round mound-like heaps, or tumuli; by the shells being injured by fire, often broken into small pieces, intermixed with fragments of charcoal; and from the fact of no small species of shell, not likely to form an article of food, being found intermixed.† The species of shell-fish consumed by the aborigines were numerous, and varied according to the locality in which each shell abounded. Those commonly used were the two species of *Haliotis*, *Mussels*, a *Turbo*, and *Oyster*: several of the smaller *bivalves* and *univalves* were, however, occasionally used, but it does not appear that the aborigines of Tasmania ever eat the *Unio*, so far as can now be traced; in this instance exhibiting a remarkable difference from those of New Holland, with whom the *Unio* forms an important article of diet.

The land shells are inconsiderable in number, not amounting to more than about six species. The freshwater kinds, including those inhabiting ditches, ponds, &c., are

\* *Voyage in search of La Perouse.*

† *Vide* a paper by R. C. Gunn: *Tasmanian Journal*, vol. II., p. 332.

more numerous; but, except the *unio*, all are small and insignificant. Some species occur abundantly in situations which are perfectly dry for at least six months of the year, and seem, like many snails, to have the power of sustaining life for a long period in a dormant state.

#### SECTION VII.—CRUSTACEA, ECHINODERMATA, &C.

CRABS of numerous species are common, and one species, occasionally caught on both the east and west coasts, attains to a gigantic size. A craw-fish is abundant on the coasts, and is much prized by epicures, and another inhabits the rivers which run into the sea on the north coast. Many other crustaceans, still undescribed or but little known, are to be found in all favorable situations.

There is little in the character of the *echinodermata* to call for special notice. Species of many genera of star-fish and sea urchins are most abundant. *Acalephæ* and *polypi* are equally numerous, and a most extensive and little-explored field lies open in this colony to the naturalist in these most interesting branches of zoology. Our *infusoria*, too, are still undescribed, though numerous; but they call for few remarks in this place.

In closing this chapter upon the zoology of Tasmania it must not be forgotten by the reader that its productions are still, in a great many cases, comparatively unknown; the notices of those described are scattered throughout an immense number of works, and in this island no museum or public scientific library yet exists, of such a character as to afford any aid to the compiler. It is not, however, to be expected that a general history of Tasmania should contain a minute history of all its varied and most interesting natural productions. It has been deemed sufficient, in the present slight sketch, to give in general terms merely those leading features which were likely to prove attractive to the general reader; leaving it to the student who may desire further information to refer to the works which have been noticed under the different heads.





## NOTES AND ERRATA.

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Page 4, for "Charles II." read "Charles I."

Page 14. This veteran was at the Exhibition of 1851, pointing out the natural productions and conversing with great zest with any person interested in this colony.

Page 29, for "did not visit," read "did not convey the settlers."

Page 41. The state of Van Diemen's Land may be inferred by the following evidence of Lieutenant Lord (1812), before the Committee of the Commons. "During eight or nine years we entirely depended on the woods. We had 2lbs. of biscuit weekly for thirteen months;"—"We had not a single death." "I have often myself been glad to go to bed for want of bread." Mr. Lord was sometime acting lieutenant governor—the writer has, during a long voyage which his gentlemanly deportment made pleasant, often heard him narrate the difficulties of those early days.

Page 56. The following extracts from various documents will bear out the statements in the text, in reference to the government proceedings of that day:—

Crossly, the government lawyer, was transported for putting a "fly in a dead man's mouth"—making a forged will. He drew up the early indictments. He got his pardon this way: he drew bills (£2000), on a man of straw in England. They were returned, but as a convict he could not be sued; therefore Governor King, to protect the creditors, gave him his pardon.—*Judge Atkins' evidence on Johnstone's trial.*

A person was ordered 500 lashes for sedition.—*Gazette*, March 1807.

Bakers using flour above 20 per cent. were threatened to have their ovens demolished.—1806.

"A breach of regulations, made at the sole will of the Governor, was punished with 500 to 1000 lashes."—*Report House of Commons Committee*, 1812.

"A man threatened to be as troublesome as Tom Pain, sentenced to 100 lashes, and to wear a label on his back with 'Thomas Pain,' written in large characters."—1806.

The following is Bligh's character of Judge Atkins—"He has been accustomed to inebriety—he has been the ridicule of the community, sentence of death has been pronounced in moments of intoxication, his determination is weak, his opinions floating and infirm, his knowledge of the law insignificant and subject to private inclination; and confidential cases of the crown, where due secrecy is required, he is not to be trusted with." (Letter to Secretary of State.) Yet Atkins was his principle adviser.

Page 65. Major Abbot said, "people err greatly in reference to my court—some think it is a court of law—but it is not a court of law; some think it is a court of equity—but it is not a court of equity. It is a court of justice and right."

Page 76, for "100,000," read "10,000."

Page 107. The following is an example of the pipe system:—"Free Pardon.—Whereas on the days of Thursday and Friday last, copies of a paper usually called a *pipe*, were circulated in the town of Sydney, one being thrown over the wall in George-street, opposite the Lieut.-Governor's house; another at the Provost Marshall's; another at Mrs. Macarthur's; another outside the walls of the Queen's Hospital, opposite the quarters occupied by D'Arcy Wentworth; each paper separately addressed to the above persons, and containing a false, malicious attack on his honor the Lieutenant Governor—it is hereby notified that his Excellency will give a free and unconditional pardon, and in addition, two hundred pounds sterling, offered by the officers of the 46th regiment, to any person or persons (not the actual authors of such paper) who will give information that may lead to the conviction of the offenders. May 4, 1816."

Page 109, for "Lord Goderich," read "Sir G. Murray."

Page 119. This passage was in type before the bill for an elective assembly passed.

Page 135, for "quit-rents 2s.," read "2s. per 100 acres."

Page 143, for "one never cultivated," read "one cultivated."

Page 152, for "£50,000," read "£5,000."

Page 152. The actual discoverer of the Burra Mines, Thomas Picket, a labourer, was burned to death in a state of intoxication in 1852.



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